



**Evropski pokret**  
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# **PREMA STABILNOSTI I PROSPERITETU**

**Socijalni dijalog u Srbiji i Bugarskoj:  
komparativna iskustva dve zemlje Jugoistočne Evrope**

# **TOWARD STABILITY AND PROSPERITY**

**Social Dialogue in Serbia and Bulgaria:  
Comparative Experiences of Two Southeast-European Countries**



**PROMETEJ**

*Publishers:*

**European Movement in Serbia**

Đure Jakšića 5/I, Belgrade

Tel/fax: (011) 30 30 687

epus@eunet.yu, <http://www.emins.org>

**Center for Economic Development**

1, Balsha Street, block 9, Sofia, Bulgaria

Tel.: (+359 2) 953 1791

<http://www.ced.bg>

**Prometej**

Trg Marije Trandafil 11, Novi Sad

Tel/fax: (021) 616-018, 422-245

[prometej@eunet.yu](mailto:prometej@eunet.yu), <http://www.prometej.co.yu>

*Publishing was financialy suported by:*

**Freedom House Belgrade Office**

Francuska 5/IV, Belgrade

<http://www.freedomhouse.org>

*For publisher:*

**Zoran Kolundžija**

*Project Coordinator:*

**Zvonko Brnjas**

*Project Assistant:*

**Aleksandra Zamberlin**

*Editor:*

**Danijel Pantić**

*Translator:*

**Aleksandra Zamberlin**

*Rewiew:*

**Prometej, Novi Sad**

*Layout:*

**Dragan Joksimović**

*Art:*

**Prometej, Novi Sad**

*Printed by:*

**Prometej, Novi Sad**

*Printed in:*

**1.000 copies**







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## INTRODUCTION

Approaching the European Union by countries geopolitically defined as Southeast Europe, and in a broader context as post communist countries of Central and Eastern Europe, is just another name for their transition towards market economy, pluralistic democracy, intensive regional cooperation and vibrant civil society.

In its research sector, the European Movement in Serbia has always paid special attention to social phenomena that at the given historical moment represent priority for successful transition of our country towards European integrations and standards of social and political life they bring along. In methodological sense we have continued to point out that cooperation with partners from neighbouring countries carries great potential and implies significant transfer of experiences of those who have already passed the path that is still ahead of us.

On the other hand, the times when researches in social sciences were not linked to real environment and when they had no possibility to critically establish the state of affairs on the basis of scientifically verified empirical facts and thereupon offer recommendations for further direction, i.e. activities of political decision makers, accompanied by offering the results to the public for an insight, are historically behind us.

Social dialogue as a form of communication between actors who by the nature of things have opposed interests (representatives of the government, trade unions and employers), but axiomatically accept the basic group of values of contemporary social systems (inter alia: inviolability of private ownership, authorities removable from office in a democratic process, tax liability) and above all pursue to establish regular, structured communication and exchange of opinions and attitudes that lead to defining compromise political solution (tripartite decision) within specially formed institutions (socioeconomic dialogue), which are later possible to be implemented with minimum resistance, as harmonized, legitimate and manifold useful decisions (*“win-win”* situation).

Serbia is still far away from the true, fully democracy based social dialogue. There are several reasons for this situation. The basic one lies in the fact that it is difficult to synchronize reform moves and choose priorities for building institutions in situation when almost everything seems to be urgent after a long period of autocracy and heavy heritage of Milosevic's regime that has left the already weak institutions in ruins, deprived of their social function because they served the rule of one man and the clique around him alienated from the social community.

The first steps towards building new institutions necessary for social dialogue in Serbia were made by the Agreement of establishment, scope of work and methods of action of the Social and Economic Council of the Republic of Serbia, made on August 2, 2001 (with the pertinent amendments of April 15, 2002). The foundations for establishing social dialogue in the country were made. At the initiative of the Trade Union *“Nezavisnost”* (Independence), decisive contribution to the process of building institutions necessary for social dialogue, and beyond it, for cre-

ating essential political goodwill to start the process was given by the late Prime Minister of Serbia, Dr. Zoran Djindjic. Despite all initial weaknesses at the beginning of the Council functioning, the fact is that this institution was established and that the awareness that its role could be critical for depreciation of pressures stemming from the process of transition and for redefining roles and accountability of all actors in the social dialogue has slowly started to rise. This will be particularly important after the state of emergency in Serbia is lifted, when some of the rights guaranteed by the Constitution that have been temporarily suspended due to the process of fighting the organized crime will be returned into the system (e.g. the right to be on strike).

The fact is that the process of building new institutions and new social awareness necessary for their efficiency is gradual, but the fact is also that all stakeholders (including the civil society in the broadest sense) need the social dialogue to be effective and fruitful, in order to diminish the upheaval provoked by the accelerated process of transition in Serbia (characterized by fast privatization, reform of tax and social systems, as well as change of rules in the domain of employment).

The multidisciplinary team of experts of the **European Movement in Serbia** consisting of Zvonko Brnjas PhD, Darko Marinkovic PhD, Mihailo Arandarenko PhD, Dragan Lakicevic PhD and Aleksandra Zamberlin, MSC, analyzed during the last year the situation in Serbia (respecting the principles of the *applied policy research*), while our partners Maria Prohaska PhD, Violetta Spassova, Liliana Doudeva and Yana Georgieva of the **Center for Economic Development (CED)**, as well as Ivan Neykov, Rumiana Yeleva and Elina Scarbew of the **Balkan Institute for Labour and Social Policy**, Sofia, presented the output of their researches related to Bulgarian experiences and based on the results of the project *"The Development of Social Policies As An Accompanying Element of Privatization"*. The results obtained by the two teams were interwoven and discussed at the consultative meetings in Sofia, as well as at the conference held in Belgrade in late 2002.

This study is the final result of the joint efforts of the two teams of researchers from Serbia and Bulgaria, financially supported by the American Foundation Freedom House and intended for all those who wish to look into the growth of new political culture and social dialogue as the key mechanism for creating social stability in complex conditions of transition in the two countries that share a number of problems, which also implies the possibility of transferring successful solutions from one environment into the other.

Danijel Pantic MA  
Secretary General  
European Movement in Serbia







I

# SOCIAL DIALOGUE IN SERBIA



# **MACROECONOMIC ENVIRONMENT AND STRUCTURAL CHANGES**

## **Economic and Political Crises in the Last Decade**

The transitional process in Yugoslavia at the beginning of the nineties differs significantly from other Eastern and Central European countries. Besides the fact that Yugoslavia, with its flexible economic system has been in a better position than any other country in transition, with a greater level of democratization and a higher level standard of living, still, at the begging of the nineties the reform process had been blocked and the whole economy faced a deep economic and social crises. Non-economic factors, especially the UN sanctions, the dismantling of former Yugoslavia (Socialist Federal Republic of Yugoslavia) and a civil war significantly contributed to the dramatic fall of economic activities and impoverishment in the majority of the population. Therefore, these non-economic factors accompanied with the inconsistent and unrealistic economic policy made a transition process very difficult and Yugoslavia found itself to be behind any other country in transition.

The main characteristics of the economic crises were souring inflation, significant drop of the GDP (only 45 percent of the level that has been recorded at the end of the eighties and only 40 percent of the GDP per capita) and increasing unemployment that amounts to app. 46 percent including the surplus of workers in state/social enterprises. Summary of the main economic indicators can be seen in Table 1 in the further text.

## **Recovery**

Finally, the last two years could be taken as the begging of the transitional process and according to the Government the process of the economic system

transformation into a system defined by a market economy and maximally harmonized with the system of the EU should be completed between 2002 and 2005. This would crucially start the process of joining the EU (for which the transition is a prerequisite – necessary but not sufficient). This demands not only for the adoption of system law and other legal regulations but also for the creation of adequate institutions (e.g. complete market infrastructure).

**Structural reforms** – Structural reforms have generally proceeded at a fast pace. Main structural change is the privatization process that started in January 2001 and should be finalized by 2004. This process determines macroeconomic policies of the period – especially the fiscal policy and the policy of public expenditures, the monetary policy, the policy of economic relations with foreign countries and above all, the social policy, which would have to bear the burden of the overall restructuring process (social security for the surplus labor and support for their productive employment and self-employment at new places of work which would occur as a result of these structural changes and the overall development). That is why the structural reforms include also the continuation of the fiscal reforms which should improve tax administration and expenditure management, identify specific aims of the social services and transfers and support fiscal decentralization. In addition, the closure in early January 2002 of the four biggest insolvent banks represented an important step toward building a healthy banking system.

**Macroeconomic stabilization** – In 2001 a substantial progress toward macroeconomic stabilization and price and trade liberalization has been achieved.

Real GDP grew by an estimated 5.5 percent in 2001, reflecting primarily strong recovery in agriculture as well as firm implementation of macroeconomic and structural reform policies. Real GDP is projected to grow by 4 percent in 2002, while the medium-term growth rates are expected to increase to about 5 percent as a result of the implementation of reforms and a projected rise in the level and efficiency of investment, both foreign and domestic. The projected growth rate and macroeconomic stability are partly based on foreign financing.

Inflation during 2001 declined by two-thirds to 39 percent by the year-end and it is expected to be only 15 percent by the end of 2002. The foreign exchange reserves of the NBY more than doubled to US\$1.2 billion by the end-2001, while the exchange rate became stable and the YUD internally convertible. Prospects for external sustainability were enhanced by the Paris Club decision to reduce the NPV debt to official bilateral creditors by 66 percent. In May 2002, the Yugoslavian Dinar became externally convertible. Monetary policy will remain tight in the following years.

The current account deficit (before grants), estimated at US\$ 1.1 billion in 2001 (10.2 percent of GDP), was lower than originally projected owing mainly to buoyant inflows of remittances. It is expected that in 2002 current account deficit widen to US\$ 1.6 billion (12.9 percent of GDP) reflecting resumption in external debt service as well as higher project-related imports. In 2002, it will be financed largely by official grants and loans that have already been pledged. For 2003-2005,



beside grants and concessional loans, FDI inflows will play an increasing role as the privatization program and other economic reforms reach an advanced stage.

The fiscal deficit was contained to an estimated 1.2 percent of GDP in 2001, against an original target of 6.1 percent of GDP, as a result of revenue over performance as well as spending compression.

**Trade barriers** – It is expected that most of the remaining trade barriers will be removed during the mid-term period. In the areas of trade in services and foreign investment, a liberal regime will be maintained.

Table 1: Republic of Serbia, selected economic indicators

	1998	1999	2000	2001	2002 project.
GDP, in bil. YuD <sup>(a)</sup>	139,0	183,2	340,1	687,9	929,9
GDP, in mil. USD	13,195	9,703	7,667	10,317	12,199
Average net salary, 1997=100	80,1	46,7	36,9	96,1	...
Average net salary in USD	94,6	55,1	43,6	113,6	...
<b>Percentage change</b>					
Real GDP	2,5	-18,0	5,0	5,5	4 <sup>(b)</sup>
Industrial production	4	-26	12	0,1	3 <sup>(b)</sup>
Retail prices (annual average)	30	41	70	91,8	26,3 <sup>(b)</sup>
Retail prices (end of year)	44,4	45,4	111,9	40,7	20 <sup>(b)</sup>
Unemployed (thousands)	769	736	722	769	...
Employed (thousands)	2357	2153	2097	1751 <sup>(c)</sup>	...
Unemployment rate (in %) <sup>(d)</sup>	24,6	25,5	25,6	30,5	...
<b>Balance of payment (In billions USD)</b>					
Export of goods	2,7	1,3	1,5	1,7	2,2 <sup>(b)</sup>
Import of goods	4,4	2,8	3,3	4,2	5,6 <sup>(b)</sup>
Trade deficit	-1,7	-1,5	-1,8	-2,5	-3,3 <sup>(b)</sup>
Current balance of payment , after grants	-0,7	-0,8	-0,3	-0,6	-1,1
(% GDP)	-4,8	-7,5	-4,2	-5,5	-8,2
Current balance of payment, before grants	-0,7	-0,8	-0,6	-1,2	-1,6
(% GDP)	-4,8	-7,5	-7,6	-10,9	-12,8
External debt (end of year) <sup>(e)</sup>	10,5	10,7	11,4	11,9	8,6
Gross reserves	0,3	0,3	0,5	1,2	1,6

<sup>(a)</sup>Estimations

<sup>(b)</sup>Estimation for FRY

<sup>(c)</sup>Number of employed in social and state enterprises (without employed in private sector)

<sup>(d)</sup>Persons on the force leave not included

<sup>(e)</sup>Data for 2002, reflects the first phase of the debt decrease of the Paris Club and similar treatments of other bilateral and commercial creditors

The economic policy objectives for 2002-2005 are the continuation of the firm implementation of macroeconomic and structural reform policies.

Inherited economic structure from the past and adjustments that are occurring during the transition process show that Serbian economy would be able to integrate into the world economy. Problem facing Serbia is the continuity of the reform process having in mind the risk that is still present.

## **Employment and Labor Market**

The Quantity and quality aspects of the labor market (in particular employment and wages), have significant impact on the most macroeconomic aspects of the economy in the Republic of Serbia. The importance of employment lies mostly in the fact that for most people salaries and wages represent the basic source of income and the basic means by which they can satisfy their daily needs. A decrease of income in Yugoslavia, and especially an increase in open unemployment and underemployment pushed many social groups and individuals to poverty.

Following economic and political crises, even after stopping the hyperinflation in 1994, the unemployment rate has been continuously increasing, from 21.6 percent in 1994 to 30.1 percent in 2002. However, considering the fact that employment has not been decreasing at the same rate as GDP, there has been a sharp decrease in the productivity leading to significant surplus in the number of the employees. Namely, nearly one million are employed in de facto bankrupted firms. Including this fact, according to estimations, the unemployment rate would be even higher amounting to 46 percent.<sup>1</sup> In order to survive, the majority of the unemployed working force needs to operate in the informal market.

Formal labor market is characterized by: a low level of working engagement of the population, low labor force mobility, high share of the first time job seekers in the overall unemployment structure (app. 62 percent), high participation of the young population (15 – 27) in the unemployment structure though with a decreasing tendency (from 60.91%<sup>2</sup> in 1994 to 48.6%<sup>3</sup> in 2000), low wage level, high disparity of the wages among the employed people of equal or similar qualifications. The expected continual growth of unemployment calls for an active policy measure targeted at this segment of the employment – seeking population.

**Structure of employed persons by the type of ownership** – Beside the crucial fact of decreasing employment during the last decade, there is an increasing tendency of private sector share in the employment structure, from only 2 percent in 1989 to 24 percent in 2000.

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<sup>1</sup> “Public-Private Sector Employment Choice and Wage Differentials in Yugoslavia” , by Michael M. Lokshin and Branko Jovanović, 2002

<sup>2</sup> Data includes Kosovo and Metohija

<sup>3</sup> Data excludes Kosovo and Metohija

**Structure of employed persons by branches (economic activity)** – employment in economic activities<sup>4</sup> decreased from 80.6% in 1994 to 75.3 % in 2000. Employment especially decreased in the following sectors: trade (by 40.4%), construction (by 34.2%), agriculture (by 26.1%), arts and crafts (24.6%) and forestry (by 20.7%). However, observing only social sector, almost one-half of the employment fall was recorded in industry and mines. On the other hand, non-economic activities<sup>5</sup> are showing increasing tendency in the structure of employment, from 19.4% in 1994 to 24.7% in 2000. Employment increased especially in catering trades and other (by 16.5%), public health and other (by 12.6%), transport and communication (by 12.4%), public utilities (10.7%). Still, the most significant share of employees in the whole structure, though decreasing, is in industry, at around 40%, public health, and education and culture (9.6% respectively). After 2001, the biggest relative drop in employment of the social sector was recorded in the construction business, financial services and other utility, social and personal services, while real estate and renting recorded higher employment figures.

## Unemployment and Labor Market Flexibility

All trends that indicate trends in labor supply and demand (such as the number of job vacancies, employment, the number of workers whose permanent employment status has been terminated and similar) point to a total lack of the labor market flexibility. The most obvious indicator is the high unemployment rate comparing to the number of vacancy positions. For example, data shows that in 2001, 25 percent of the available work places were vacant (in absolute figures that is around 140,000 working positions). This leads to a conclusion that the number of unemployed persons of around 800,000 could have been smaller if Serbia had a well established flexible labor market.

Main causes for the mismatch of the labor supply and demand find its root in two main domains: (a) discrepancy of what is needed and offered in terms of the qualifications/educational level (connected also with the main structural changes that Serbian economy is facing) and (b) low labor mobility.

**(a) Structural changes** – An inadequate education system, particularly vocational secondary level that was related mainly to the industrial sector for many years produced a cadre of employees ready to serve an economy that no longer exist with the current structural changes. Analysis shows that among those who are seeking a job the greatest interest is for the tertiary sector rather than the production sector such as industry and agriculture. The highest coverage of the available work-

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<sup>4</sup> Economic activities include: industry, agriculture, forestry, water works, supply, construction, transport and communication, trade, catering trades and other, arts and crafts, public utilities, commercial services.

<sup>5</sup> Non-economic activities include: education and culture, public health and other, public services and other.

ing places is in the transportation sector (85 percent), followed by catering (82 percent), and trade (80 percent) and the least is in construction enterprises (61 percent).

Data also shows that the labor mobility is higher in the private sector comparing to the social sector. Figures shows that more available work places are fulfilled in private sector (80 percent) then in the social sector (70 percent). This leads to a conclusion that workers preferences have changed in a way that wage level appears to be the basic motive in job selection rather than job security. Observing only private sector, the least number of vacant places is in the sector of urban utilities (6 percent), than transport and communication (15 percent), and on the third place catering and trade (15.5 percent). The least coverage of available places is in the private political organizations and communities (35 percent).

**Educational structure** – The least coverage of the vacant places is with the positions that require university education, and highest are those that require higher level of education (2 years after the secondary school). This gives an indication that Serbia is lacking a high quality staff (university degree), and one of the reasons is the brain drain. In addition, observing only private sector, the situation is much better, what means that educated people showed an interest to work for private companies rather for social ones, since fulfillment is much higher in terms of the professional advancement and higher wages. Also, miss match between the labor supply and demand can be found among the employment opportunities that require unskilled workers. Namely, beside the fact that there are a number of unemployed low skilled workers there are a great number of vacancies. This indicates that regional distribution of enterprises and workers are unequal.

*This points out on the structural problems of the country and that among unemployed there is an unequal professional distribution, meaning that in some occupation there is a surplus of cadres and in some a deficit.*

**(b) Low labor mobility** – Low labor mobility leads to an unjustifiable regional distribution and mismatch of the labor supply and demand. Studies showed that the main reason for the low labor mobility is of the economic nature (e.g. inability to resolve the housing problem) on one hand and the socio cultural factors on the other hand (life stile). For example, in Serbia, low labor mobility explains high regional discrepancy between labor supply and demand in the health and education sector. At the same time, if the problem of the labor supply and demand is observed on the regional level, it is observed that in some municipalities unemployment as a problem does not exist whereas in some other municipalities this represents a significant problem with several hundreds of unemployed.

## Labor Market Reform

More significant changes in the employment figures were expected to take place after the adoption of a New Labor Act at the end of the 2001<sup>6</sup> The law fi-

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<sup>6</sup> Official Gazette of the Republic of Serbia, 13 December 2001

nally introduces the concept of the labor market flexibility. It is intended to liberalize relations on the labor market, and could help significantly reduce employment in those parts of the social sector which had previously tolerated under-employment and labor surpluses, but also stimulate the registration of those employed in the gray economy and the private sector.

**Simplification of the hiring and firing process** – Flexibility of the labor market required a simplification of the hiring and firing process – the creation of such formal preconditions, which would enable the entrepreneurs to adjust the level of employment according to the need. Employment procedure is simplified in the way that there is no legal obligation to perform the employment through out the public ads, which used to prolong and raise the price of the procedure. It is envisaged that only the law determines the general conditions of employment, and that the employer determines all other conditions needed for the specific job. The firing process is also simplified. The law quotes only the unjustified (discrimination in respect to gender, religion, race, etc) and the justified reasons (non fulfillment of the contract requirements and changes due to the technological, economic or organizational reasons) for firing (article 10). The latter one represents the main criterion for firing the redundant labor force. Accordingly, the long lasting concept of job security disappeared. Redundant workers are particularly affected. Those who were on paid leave with this change would either have to be back to work (hardly the case) or more than likely would lose their job.

According to the Republican Ministry of Labor, currently there are app. 800,000 unemployed in Serbia, but it is foreseen that in the following two or three years, due to the reform process, the new Labor law and privatization this number will be increased. It is expected that only in this year around 60,000 people will lose their job.

Following this conclusion, the Government adopted a Social program that is focused on the promotion of new employment possibilities, informal education and retraining for easier employment. Another channel is that for those who are at the end redundant workers to help them with retraining process to find a new job opportunity. This is happening with those workers who lost the jobs in those banks that were just recently closed. In general, Republican Government is actively working on the active labor market policies, that include public work, clubs for job search, centers that give the support to new employment.

According to the Republican Ministry for Labor and Employment, the Social program has already shown positive results comparing to last years results: revenue per employee has increase by 215 percent, productivity increased by 376 percent and wage by 119 percent. In addition, the number of employed with a high education has increased by 8 percent, than the number of employed without help. Of the labor market, institutions have increased by 18 percent. This points to increased labor market flexibility. Also, there were 1599 new employment programs that gave employment to 4244 unemployed people.

In addition to this, the Republican Ministry for Labor and Employment together with the Serbian Development Fund provided the amount of 1 mlrd YuD (16.7 million of Euros) of unused financial sources collected in previous period in the solidarity fund and now to be used for new employment opportunities, particularly of those workers who are of technological surplus. Beneficiaries also will be small and medium enterprises (SMEs). It is also expected that active labor market policies will be financially facilitated through donations by the European Agency of Reconstruction and a loan from the World Bank.

According to the Republic Labor Market Office, those active labor market measures raised number of employed in the last year, and it is expected that around 100,000 more people would be employed than last year.

**Adjustment of the wage level** – is another aspect of the labor market flexibility. The wage flexibility is now in the hands of collective bargaining. Unlike the previous system, the Law only provides the framework for a collective contract, and specific regulation of questions in collective contracts is left to unions and employers. The bases of the Labor Law (article 84), minimum wage is set on the bases of the agreement among the Government of Serbia, Union representative and representative of the Employer union on the territory of the Republic of Serbia. Current minimum wage was set in July 2002, for the period July – December 2002, and following parties were involved in negotiations: Union “Nezavisnost”, Association of free and independent unions, Association of the Serbian Unions, Serbian Employer Union and the representatives of the Republican ministry of Finance and Economy, Republican Ministry of Social Affairs and Ministry of Economy and Privatization. An agreement was reached and the new minimum wage was set to be net 22.5 YuD per hour. This figure is increased by the income tax and contributions according to the law. Minimum wage was increased by 21.88% comparing to the level in the period January-June 2002. Monthly minimum wage that employee takes home (net), based on the average number of working hours of 174, amounts to 3.915,00 YuD, that is in comparison with the average net wage in the Republic (according to the last data, 8.635,00) 45.3 percent. The minimum wage is determined according to the working hour for the full working time, and accomplished standard efficiency.

The most important change is the constitution of the Socio Economic Council is creating the base for the social dialogue among Government, Unions and Employers. Experiences from other countries have shown the impact that collective bargaining can have on wages is likely to depend on the degree of coordination that exists between different unions and employer associations, as well as on the extent to which the government is involved in the negotiation process. Its activities are determined according to how capable a specific union is to exercise a social and political pressure.<sup>7</sup> In addition, in most European countries, with the exception of the United Kingdom, trade unions play a significant role in wage determination and,

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<sup>7</sup> “Labor, Employment and Social Policies in the EU Enlargement Process – Changing perspectives and Policy Options”, Bernard Funck, Lodovico Pizzati, World Bank, 2001.



even when the number of unionized workers is fairly low, agreements reached under collective bargaining can extend to nonunion members, thus covering a large fraction of the labor force.

In addition to the new Labor law, Draft Law on Employment is expected (creates conditions for new employment possibilities and provides the financial security of those who are temporarily unemployed).

Draft law on the Health protection of employees according to the high, European standards is being prepared and Draft Law on the Employment of Disabled is in the preparatory phase.

## Social Economic Stability

**Poverty**<sup>8</sup> – Poverty in Serbia has increased dramatically in the last ten years due to political and economic crisis. The number of poor people has increased two and half times and there are an increasing number of poor people living just above the poverty line. Number of people became poor as a result of social exclusion, lack of access to public services, opportunities and markets, discrimination, etc.

Available statistical data shows that approximately one third of the population in Serbia lives in poverty, defined by the national criteria, with the income that is less than 30 USD on a monthly bases, and 18 percent live in the conditions of absolute poverty with a monthly income of less than 20 USD. There is a great risk that the number of poor people (those who live just on the poverty line) will be increased due to low salaries, pensions, and social contributions, together with the relatively low budget possibilities and price liberalization. In addition to this, as it was mentioned before, due to the restructuring process of the country number of unemployed is increasing on a daily bases.

**Poverty reduction strategy in Serbia (PRSP)** – Serbian government is preparing the poverty reduction strategy paper that will give the support to the economy restructuring and new employment opportunities particularly through SMEs development. Another focus would be to increase the funds for social programs, particularly the labor force retraining.

Therefore PRSP would cover three main directions. *First possibility* is creation of the new employment opportunities and promotion of the economic growth. Population as a whole would be targeted, but with the specific focus on those individuals who lost the employment or to those who became the lower income category group. Specific measures would include retraining programs and job seeking assistance. *Second measure* would be oriented towards further poverty prevention, since there is a number of redundant workers in social enterprises that will be in the near future restructured and privatized (estimated 500,000 redundant

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<sup>8</sup> Interim Poverty Reduction Strategy Paper for the Republic of Serbia, Government of Serbia, 2002

workers). Prevention measures would include creation of additional production facilities and SMEs, and the provision of the social package that would include technical retraining. *Third measure* would be oriented towards standard social policy instruments including better social protection, education, health protection as well as the possibilities for creation of new employment opportunities that would decrease the social exclusion. Those measures would specifically target poor and vulnerable categories of the population

*It has been also concluded that development of social dialogue can significantly contribute to the poverty reduction in Serbia.*

**Standard of living** – Average net salary has been increased by 3.6 times in the last two years, from 2,576.00 YuD in September 2000 to 9,342.00 YuD in September of 2002. In addition, real-term wages are also showing an increasing tendency, thus showing the raise in the purchasing power and standard of living. The most obvious indicator is the number of salaries needed to cover the value of the consumer basket. For example, in September 2000, 6.69 average salaries were needed for a consumer basket, and in September 2002 only 1.72 average salaries.

**Salaries by economic activity** – The data show that since the stabilization in 1994, there was an increase in nominal value of the average net-salaries in the Republic of Serbia, in all branches. Still, the highest net salary in 2000 is in forestry (42% above the average), commercial/financial services (41% above the average), public sector (33% above the average) and transport and communication branch (29% above the average). The total number of employees in the sectors that have salaries above the average is only 19%, compared to the number of employees that cover sectors that have salaries below the average which is 41%; the remaining 40% belongs to the sector of industry that has the average net salaries on the average level of the overall Serbian economy.

# **GLOBAL SOCIAL ENVIRONMENT AS THE FOUNDATION OF THE SOCIAL DIALOGUE**

## **Introduction**

Normative model of the modern society in brief is characterized by the paradigm of two groups of institutions having the supplementary role. Those institutions regulate the public and private sphere, i.e. legal and market institutions. The first type of institution prescribes the general norms or rules on the modalities of the political competition and reaching the decisions of general significance, involving in treaties ratification, provide individual and collective rights. Market institutions are those who should secure the business rationality, i.e. maximal utilization of the available economic resources. Gained experience proved that competition and private initiative represent the mechanisms that assure this rationality but under the favorable legal-institutional framework. In addition, a necessary precondition for the functioning of modern society is the membership of international institutions, meaning the acceptance and implementation of the general norms and standards that are prescribed for the developed society. Above all, it relates specifically to the access of the financial institutions, as well as to the international contracts and compliance to the current technical norms. Building a modern society needs a political and economic stability, or at least a valid presumption that this will be attained using the current political and economic framework. On one hand, it presumes the political consensus in reaching the goal, as well as the compliance on the main strategic moves. On the other hand, the willingness of the powerful international institutions to giving full support to a program

When speaking on Serbia, obviously there is a high deficit of the presumptions that would secure the previously mentioned paradigm. First of all,

borders are not even clearly defined (Kosovo is only officially inside, and in fact it is under the international protectorate with relatively high chances of gaining full political sovereignty). Second, Serbia is a member of an almost fictitious union with Montenegro, producing a number of negative results. We will mention some of them: (a) supporting costly federal administration that seems to not even be mandatory for Montenegrin government. It is an additional tax burden for Serbian citizens, that do not only pay the Montenegrin parliament representatives (protectors of the quasi-union state), those who in fact using the black mailing decisions hinder the work of the government, its own coalition partner, but they also give a financial support to 25 embassies around the world where the officers in charge are in fact the representatives from this Republic. On the other hand, current Montenegrin governments do not acknowledge the joint state, thus having independent external and internal policy. For example, it is a well-known fact that in the last couple of years, Montenegrin delegations abroad did not use any of the Yugoslav embassies during their visit. In this respect, Serbia is a hostage of two expensive political factions: (a) that it is of its own interest to keep the Kosovo territory where almost none of the citizens declare to be of Serbian nationality, the territory that was alienated by the International community; (b) that sooner or later, Montenegro will win the political option of Yugoslavia as a state. It is necessary to add that in both cases the International community was the one that imposed such a situation. Firstly, Kosovo is occupied by foreign international forces, as sort of an established protectorate, whereas officially it still belongs to Serbia. Even in such a case if Serbia would want to get rid of this part of the territory, this would be an impossible move. During the period of Milosevic government, Montenegrin succession was planned well in advance, using the enormous Western donation system and a strong ideology of independence. In one moment there was an overlapping in the ambitions of Milo Djukanovic to stay away from enough dangerous Milosevic politics (in what was the most rational move for both, himself and Montenegro), and the interest of the International community to weaken the Milosevic regime. With the idea of Montenegrin independency the split up was unavoidable once mobilized and has been growing since even after the Milosevic regime. The European Union succeeded to cut the referendum idea of Montenegrin independency making the Institutional chart on the temporary state union obligatory, where only some of the functions (five ministries) would be common, whereas both states would have their own existence policy (for example, two currencies would be present, *Dinar* in Serbia and *Euro* in Montenegro). It is yet to be seen if the new governmental structure would decrease the tax burden to Serbian citizens, and the way the union will function.

If the above-mentioned unsolved questions are put aside and the attention is focused to the international environment, just a glance would prove a fact that Serbia (still Yugoslavia) is excluded from a number of vital international institutions, except those toward which has financial and political obligations. Sanctions toward the international community are abolished, but none of the previous existent

agreements with western European and other countries were ratified. Essentially Serbia is still under the silent isolation regime, having unfavorable effect on its economic development. Yet, this is not surprising, since Serbia was considered as the main disturbing factor on the Balkans in the last decade. The Destructive Milosevic regime brought Serbia into a position of such isolation, never known in its history. In this respect, inertia of the international institutions is so high, that once being expelled from the international framework, a slow return to the world is to be expected. No matter how fast return to the world the new government in FRY and Serbia would desire, number of preconditions is being set and need to be fulfilled in order to regain the lost confidence. Above all, the focus is on the Hag Tribunal and its respect (where FRY government did not make such a good impression), then recognition and establishment of the good relations with former Yugoslav republics, etc.

However, not to gain a wrong impression, it is necessary to mention that Yugoslavia (thus Serbia) regained a membership status in the key international institutions, without which the existence in the modern society is almost impossible – United Nations, International Monetary Fund, Interpol, and in addition having the doors opened even for the Council of Europe and World Bank, etc. This “return to normality” is even reflected in the number of foreign delegation visiting Belgrade; including the establishment of a number of the representative offices of the well know foreign banks. Though, the main activity, at the time being, is dedicated to very fundamental banking activities, such as collection of foreign savings, and credit activities to small enterprises only started to emerge. The most significant change could be that the big insurance companies (for example, Hermes) for the first time started to give guarantees to foreign companies engaged in the business activities in Serbia, thus representing the clear sign that the economic recovery has started.

Disregarding the two important aspects (non defined state status, slow return to the international institutions), it is necessary to see to what extent is Serbia capable to fit into the two above-mentioned paradigms? Namely, what does Serbia do in terms of its own modernization and resolution of the existent acute problems?

## **Legal Institutions**

Non-existence of the coherent set of the legal norms regulating the vital relations in the society is still present. First of all, the new federal and republican constitution is necessary. Without this very basic legal act it is ridiculous to start any reform of the society, since the hierarchy among the legal acts is not established. It is interesting to mention that beside the fact that number of legal act and sub acts was adopted, they are rather a consequence of the extortion than based on the well thought out legal activity. On one hand, obviously a non-healthy competition between the federal and republic government existed, thus slowing down the activities of the republican government (whereas the federal government is almost dismissed and near to elections within the new union), and on the other hand, sig-

nificant overlapping of legal act and solutions. We can only hope that new-formed Union will clearly separate the responsibilities that fall under the Federal and Republican government and that Serbia will be constituted as a state where the whole set of the legal instruments will be clearly defined, thus providing the healthy base for State efficient functioning.

It is impossible to imagine a functioning of the state without efficient court of justice apparatus. None of both, Yugoslavia and Serbia have such an apparatus. Any kind of reform is impossible without the primary court reform - for both establishment of the clear law subordination and with cadres. This means that there is a need for a substantial change of laws (textual ambivalence of the laws was an indigenous disease being present for decades in the courts) and of the procedures regarding the adoption and implementation of the court decisions. Their key characteristic is the ambiguity and imprecision leading to a larger extent in arbitral comprehension. In certain ways, such a system was favorable to previous regime and elite representing it: neither court of justice, nor the economy in general were acting independently, but were serving the system that was very similar to the subordinating system of the feudal governmental structure. Due to court non-independency and non-efficiency several negative results occurred: (a) in the political sphere, strong influence of the non-formal groups on decision-making process and non-respectfulness of the hierarchy of the court competencies; (b) in the economic sphere, fatal implications on the business activities. Overall capitalistic economic system of the developed countries is based on the efficient court of justice, meaning that efficient sanctions secure the fulfillment of assumed liabilities. Some of the remaining of the socialist economic system is the impossibility of debts repayments, thus violating the basic economic principles of the economic activities. Furthermore, we can say that existence of the criminal behavior to a large extent primarily resulted from non-efficient court of justice. Extorted debt payment through criminal organized groups was to a high degree responsible by the court of justice's inefficiency. Previous court inclinations toward the debtors (especially toward social enterprises) in the new circumstances joined the new business stile of certain private entrepreneurs, who systematically used the weaknesses of the court system for fraudulent activities and tax avoidance.

In addition to such bad conditions with respect to the court of justice, there is a huge inefficiency of the police apparatus that in the previous regime to established good links within the criminal groups. Among the politicians, police and criminals, facilitating the illegal enrichment using diverse channels such as the black market, blackmail, and reselling of the deficit commodities, still represents a heavy but powerful burden of the previous regime. Number of homicides in the world of the new rich elite and non-existence of the legal and property security (kidnappings, blackmailing, and extortion) are bad prerequisites for a normal functioning society. It is more than obvious that those on an average of 100.000 individuals, who are according to the police resources, engaged in the criminal activities present a factor with whom this society is not able to deal with in the near future. A



society becomes a casualty, when it neglects the efforts of the honest working that in any case represent the substantive foundation of each civil society. Until a clear line is made between the criminal activities and honest work, until sharp and efficient sanctions are introduced towards any kind of criminal activity and until people from the government apparatus completely withdraw from those underground activities, it is impossible to expect the beginning of the normal economic activities. It is not worth even mentioning to what extent an inefficient court of justice and policy apparatus, i.e. the existence of the powerful mafia can dissuade the potential foreign investors. It seems that this deliberate criminalization of the society (mostly due to implementation of the war policy) on behalf of the regime of Slobodan Milosevic is at the same time one of the worst results of his regime. It is enough to mention the non-famous place near the very top of the list indicating the level of corruption, disqualifies Serbia (Yugoslavia, i.e. states union) on the long run in getting closer to Europe.

## **Market Institutions**

Privatization process in Serbia is implemented only to a certain degree, and very often inadequately. Today, after 11 years, less than 10 percent of the previously social ownership property was privatized. It is obvious that the main objective of the privatization was creation of the efficient economy. In the very moment, when the privatization process started, first during the government of SFRY and Ante Markovic, and than in FRY, main belief was that the only way to make the social property be more efficient is by internal distribution of shares, thus opening the possibility of the parallel functioning with the real private enterprises. Enterprises could decide whether they should enter the privatization process, i.e. relatively long time framework has been giving for such a decision. On the other hand, Serbian government nationalized the most vital social enterprises, which were important for the overall economy functioning (oil derivatives, electric plants, mines, ore deposits etc.), thus securing the financial monopoly – indirect consequence was the establishment of the patchwork economic system with plural ownership structure: state enterprises, social enterprises, share holder associations and private entrepreneurs. Denationalization of the key economic branches could be partially explained by the fact that Serbia was in a war situation since 1991, thus making the control of the vital resources justifiable. However, the concept of the coexistence of plural ownership structure was absurd with respect to the economic efficiency. Simply saying, those are the actors of different competencies and strengths, some of those are facilitated, and others pushed out from the state services, and the final outcome is the impossibility for the market game. And non-existence of the market game i.e. neutral State position and equal chances of all game participants makes the efficiency of the economic activities not possible. In addition, privatization process was practically blocked by number of state measures due to the war chaos situation (layoffs

were forbidden during the period of UN sanctions, capital drain from FRY, and non existence of the foreign investment interest for domestic enterprises, etc.). In any case, for good comprehension of the huge deficiency even in the good market institutional framework, it is necessary to take into the account the fact that war had a significant influence on Serbia's legging behind in the transition process, i.e. leaving behind number of negative consequences within the economic activities, unemployment rate, efficiency of the available resource utilization, loss of the previous market share, brain drain (high qualified cadres) and further broadening of the technological gap. Estimation of the total market Serbian capacity should take into the account all the above-mentioned factors. This is why we strongly believe that the main problems with respect to the market institutions are to be found within the legacy of the past, and not readiness of the government and managerial elite of the previous regime to give up the benefits.

State regulation of the economic activities still to a high degree exists. On one hand, this is a necessity to a certain degree since the large share of the enterprises is still of the social or state ownership nature. Since, some of the enterprises have the monopolistic status (energetic sector, telecommunications, transportation) it is still hardly possible that the state would give up its ownership, though inefficiency of the state enterprises is clear, and it's expensive and harms the citizens. However, the core problem is the existence of number of social enterprises that in the majority cases have accumulated debts, obsolete technology, surplus of workers and administration staff, bad management teams. Whereas the most recognizable are the so-called "Socialist dinosaurs", huge enterprises with thousands of workers, huge invested social capital and not having any economic prospective in the form that still exists. The restructuring of those enterprises, i.e. closing down number of units, privatization of those parts that could be economically viable, i.e. closing down the production lines without market justification, is the urgent task of the Serbian economy. Beside the fact that from the efficiency point of view, those enterprises should be the first ones to be privatized, the restructuring process and change of the ownership status of those enterprises is very difficult due to huge number of employees and thus future layoffs, and because of the huge and powerful management team from the previous regime. In this respect, the state is forced to finance the maintenance of those giants, expecting that due to the shorten term for privatization, management team would find some more justifiable and rational solutions, or that there would appear certain foreign interest that would buy the company and invest fresh capital in it, i.e. in the worst case, that market logic would force those giants to the bankruptcy.

High degree of state regulation reflects even in the issuing of the great number of the licenses resulting in the capital drain, high level of corruption and discouragement of the private entrepreneurship. On this way, state on one hand, shows the lack of regulation where there is certainly a need (adoption of the systemic laws on the business activities, guarantees for the assumed liabilities, security against the blackmailing and threats, financial control, efficient information system,

neutrality with regard to adoption of the general norms, etc.), and excess of regulation in the cases where this is not a necessity (huge number of business licenses, large contributions that are paid disregarding the business profitability, number of state enterprises operating as monopoly, etc.). All the above mentioned points to the fact that we still do have expensive, non flexible, rigid and huge state machinery that places itself above the economy and that this is still not a cheap and efficient service mechanism of the society. Rationality of the business activities is partially provided by the monetary policy through the stable currency mechanism. On this way the state is achieving both, on one hand, state fills in the budget since the citizens are forced to sell their foreign currency facing high costs of living, and on the other hand it gives the guarantee to foreign capital, that if it is invested, it won't be devaluated by inflation. However, over valued YU dinar discourages any export activity, which is the prerequisite for more equal external trade. Relatively low import taxes and "strong" YU dinar goes in favor to importers, and the question raises how to cover raising gap between the import and export. Without export stimulation, thus real exchange rate, recovery of the economy is impossible.

## **Global Environment and Possibility of the Social Dialogue**

Social dialogue assumes clearly defined roles of the actors. Due to the late beginning of the transition process, we practically have partners, but only state representatives have more or less clearly defined physiognomy. Employers should be capital owners, thus individuals who have the sovereign right to hold the property, which is not the case in Serbia, since the property is still either state or collectively owned (in this case, workers, in majority cases share holders, appear to have double role – formal employer and employee), and thus not having the precise defined interests of the employers. On the other hand, unions, being a third partner, in majority cases represent themselves, thus not strongly created interests of the employees in certain branch. Two largest unions are the remaining of the previous period of the pro-socialist regime: former state union, representing the extended hand of the elite that had the power to secure to social piece and independent union, with the main role of political mobilization towards the destruction of the regime. With this we do not neglect the contribution of the mentioned unions in terms of the negotiations for the interest of employees but our attitude is that still unions are to be formed in the new environment, with the majority share of private entrepreneurs and when different partial and collective interests of those who are entering the hiring status will be clearly defined.

In our situation, state should not be only one of the actors of the social dialogue but its pro activeness is important. First, state, i.e. government, should adopt all necessary laws in respect to the fast privatization process, and those in respect to the rights of the employees, terms of negotiations and a guarantee that achieved deals would be accomplished. Therefore, it is the government who should secure

the ambient where the basic interests of both parties (employers and employees) regarding the business activities would be satisfied. Second, the state is not only the owner of number of enterprises but due to the late privatization it has to be even the mediator between the management structure of the so called social enterprises and employees. Third, transition process itself on the very begging assumes on one hand number of lay offs (due to either restructuring of the enterprises or it bankruptcy), and on the other hand decrease of the living standard. Majority of workers staying out of work (not by their fault) should have institutional guarantees and diverse specter of assistance. Guarantees consider the retraining possibilities, facilitation in job search by state agencies, confidence that new jobs would be created soon enough. State should also secure the financial sources for the social care of those who will stay without a job for a longer period of time.

It is clear that those regulative functions state should hold only temporarily, not allowing it to become sort of paternalism of the former period when state in the name of the social piece restrained the business efficiency (job guarantee disregarding the business profitability, maintaining relatively high salaries harming the investments, delaying the privatization process, with privatization forms where employees almost automatically become the share holders, maintaining the agony of non successful enterprises, social care of those who are only fictively employed through enterprise, etc.). It is important, that government, in the shortest possible period finds a solution for big socialistic enterprises that collects only losses – to restructure it and sell it to the strategic partners or to close them down; also, to create retraining programs and programs that would increase the labor mobility. This is the only way to create a healthy base of successful economic activity that would be able to find the capital for future investments, and thus new jobs creations. Only healthy economy can absorb the labor and assure the increase of the standard of living. Last decade was decade of problem delaying in respect to the financing of the big non-profitable enterprises, maintenance of the surplus of the employees using the mechanism of small paychecks, and silent agreement to the parallel employee's activity in the shadow economy. On such a way, already tiny financial resources were used. On the other hand, through fictive employment and work in the shadow area, employees were neither developing the consciousness of the new emerging conditions, nor were oriented on those occupations and knowledge for which there will be a need in the future economic environment (retraining, consciousness about the work discipline, readiness for occupation change and the change of living place).

There are number of factors that will have a negative influence on the economic recovery and success of the social dialogue in the long run:

- Social card of Serbia shows the enormous number of unemployed or fictively employed. This makes a strong pressure on the job places, reduces already low wages and represents a high risk to any government that would want to start with radical and fast reforms (possibility of social protest, job search inertia, bad qualification structure of unemployed, etc.);

- Unions are usually a consequence of the political construction (former and current regime), and as such inadequately represent the interests of those who they call upon. Since the worker participation is rather low, union's legitimacy as a negotiator is questionable;
- Large socialist collectives are collapsing requiring a significant number of layoffs. This opportunity is highly used by the non competent management teams in convincing the unions to fight against the privatization, and in fact privatization represent the only possible way in creation setting up the foundation for normal business activity. This is the way in which the non-healthy coalition of the former socialist directors (postponing the moment of privatization with the main objective to keep the beneficiary positions) and employees (giving them a support as a result of the fear of losing a job) is formed;
- The chaotic situation is highly used even by the new private employers in such a way that they completely neglect the assumed obligations towards the employees (evasion of the presumed contributions, very often do not pay the wages, do not provide the necessary work protection, etc.) and using the privileged position do not create the conditions that would help the creation of the employee unions that would defend and protect their own rights. In other words, wild capitalism exists where workers do not have any protection (neither from the union side, nor from the state).

Simultaneously, there are even some positive elements in the current reform process. We will mention some the real possibilities:

- Some of the already privatized enterprises will face the significant amount of investments that would at the end require the new fresh labor force, thus it would not be the case of the layoffs but even a demand for the labor force. In addition, better business activity will lead to wage increases;
- Private sector development will provide the employment possibility for the redundant workers of the former socialist enterprises. Similarly, workers that are searching for a will go through the retraining programs that will be adjusted to the needs of acquired occupations and will influence the individuals in such a way to accept the higher responsibilities;
- In time, authentic union conciseness will be developed and membership will be increased resulting in the increased negotiation power. At the same time, unions will have to educate their negotiation teams, specialize them for the functions they are supposed to deal with;
- On one hand, state will have to lessen the formal level of the workers security (assumed employers obligations towards the workers contributions and redundancy package in the case of job loss) and on the other hand to assure the efficient control and drastic sanctions for the employers that do not respect the collective agreements. This will be possible only when the social ownership disappears, having the clear ownership rights and titular.

## Legacy of the Self-governance and Experience of the Nineties

The biggest ideological illusion of the socialist Yugoslavia was the myth about the self-governance as a “third way” that would overcome the limitations of the capitalistic private-ownership on one hand and socialistic planned economy on the other hand. The basic innovative idea was that state enterprises should be free enough to do business with the high degree of independency, i.e. to act as rational economic actors that do own the capital and by their own will to engage into the transactions with others.

At the very begging, this was an attempt to influx the entrepreneurship activity (present within the capitalistic-ownership relations) into the workers collectives (workers as owners of the capital). In time, the system has been “improving”, but without a change of the key necessary presumptions. Namely, beside the fact that enterprises were gaining more freedom (in 1965, enterprises gained the decision power in capital utilization for increased reproduction); state-party organs retained the double role, of the owner and regulator of the economic activity. The successfulness of the self-government system was only the ideological myth. This was the name of such a form of organizing the production, trade and redistribution. Self-governance was the hybrid form of economic activities where party state simultaneously tried on one hand to keep the collective property ownership, regulation of the economic activities to a high degree, and on the other hand allowing certain level of the autonomy of the enterprises and introduction of the market mechanisms.

Yugoslav ideologists of the self-government system were constantly forgetting a fact that did not fit into the theoretical framework of the Marxism: a prior socialist conclusion was based on the presumption that collective would act with the same rationality, as it would be of an individual (owner of the enterprise). This was certainly not the case. Self-governing collective is not the one who established the enterprise; it is done by the political will or by another enterprise. On this way, responsibility does not exist in comparison with the individual entrepreneurship that precisely measures the cost and benefits of started the business with the full responsibility from the very beginning. On the other hand, workers employed in self-governance enterprise that did not participate in its creation, being there only by chance, not feeling as a part of the enterprise, act rationally only with regards to higher wages. They neither show an interest for savings nor for investments, since those are the long-term goals (the owner is the only who can think about those and not the workers who only work there and can terminate it at any time). Therefore, workers did not accept the entrepreneurship responsibility, and wages are inadequate stimulus. Wages were based on the *Upravnilovka* system (equality), and not on the output. Worker output has been judged only on behalf of the individual capitalist, and not by the collective itself, where other values had the priority – good service, opportunism, etc. Major consequence was that enterprises did not accumulate

resources for new investments, not even for amortization. All was absorbed by wages. Production mistakes were covered by inflation. And at the end constant hunger for investments were present.

## **Reform Attempts Through Nineties**

Myth about successfulness of the self-government system to a high degree delayed the process of transition. State employees were still convinced that this was the right model, and should not be thus changed. Privatization in Serbia started during the mandate of the president of the Federal government Ante Markovic (1989), being afterwards delayed during the Milosevic regime.

Major negative characteristic of the privatization during the Ante Markovic period was the absence of the energetic privatization of the social enterprises. "Yugoslav Law on Enterprises" (1989) was still under the influence of the "social ownership" concept. Privatization concept assumed too long time framework for its completion (5 to 10 years), leaving too much freedom to the employees to decide when would be the most appropriate moment to start with the privatization process. During this period, the most popular suggested privatization model used in all transition countries in Eastern Europe, was vouchers and share holders privatization. However, the key problem was not solved. Namely, voucher privatization (free distribution of vouchers to the employees) or selling the shares (where employees get huge discounts and benefits for purchasing the shares of the enterprise where they are employed), did not bring the fresh capital on one hand, nor the employees were motivated to save and invest, on the other hand. This was the way on which non successful or half successful enterprises were losing the opportunity for improvements of the economic activity: shares are of low value and not desirable for any trade, restructuring of the enterprise is under the doubt, since generally it assumes number of layoffs, what is again not possible since employees have double role, including the role of the employer, and finally, employees as the share holders would rather concentrate on the income generation than to the savings used for further investments in the new technologies.

Shareholder (insider model) privatization on one hand theoretically provided fast incomes on behalf of the state, relatively broad owner's dispersion and fast creation of the management structure. Though, negative characteristics were present and overtaking the dominant position.

Government under the Ante Markovic decided to follow up the model of shareholders privatization. It was a big move on, but followed by a number of unsolved problems. First of all, clear criteria for the enterprise evaluation did not exist. Huge social capital was purchased for a very low price. Enormously high inflation was in favor to this situation. Enterprises were in principle bought by its own management structure, leading to zero state income. Neither was social structure changed nor the way of handling the business activities. Investments were still

the problem. The question was if the workers, now the shareholders would agree to the savings, and if they are on its own capable of attracting the capital? Dominate position of the inside investors created the situation that employees were still led by the short-term interest (not long term). This means, higher wages, smaller investments. Second, even if the workers would even want to invest, the lack of resources was present.

In principle, one of the key reasons for low success of the privatization process was the fact that key actors (politicians, socialist directors, employees) did not realize the inevitability of such a process. There was a belief that problems facing the economic giants would pass (especially having in mind big factories in Serbia), that the money would be printed and state and banking funds would cover any loss. (Partially they were right, having in mind that this exactly happened during the Milosevic regime, but even resulting in higher losses and significantly lower wages).

Positive aspect of the economic policy of Ante Markovic was the currency (dinar) stabilization and stimulation of private entrepreneurship. Beside the fact that Ante Markovic belongs to the socialist theoretic school, with market opening and lessening the registration procedure of the private enterprises he created the initial possibility for private sector to compensate the losses of the social sector and economy in general. There were hopes for foreign investments, but soon enough became illusory due to the political instability and dismantling of the country. Though, significant foreign reserves (10 billion of USD) and relatively high living standard (app. 3000 USD p.c.) gave the theoretical possibility to Yugoslavia to handle the transition process relatively painless (since wage and employment reductions to a certain degree were inevitable), but the appearing political pluralism transformed into the struggle between the national elites for the country decomposition.

Simultaneously, with attempts by the Federal government to shape the economic ambient for the transition process, new political elite emerged offering a new investment cycle. Instead of the ownership restructure, governing elite, composed of the politicians and managers of large state and social enterprises, turned back to the old socialist myth that investments solve the problems. Therefore, instead of the acceleration of the privatization process, tax decreases, stimulation of the private entrepreneurship, termination of the cadres' policy, inefficient utilization of the capacities – new big political campaign emerged. In other words, there was a huge announcement of the national loan, reallocation of the banks funds to the programs that deal the road infrastructure, communications and similar. In the following years, only losses from such a project could be noticed, significant sources were spent for nothing, and the war fog make the impossible to determine the responsibility of the individuals who initiated such a project. It can be only said that this project prolonged the existence of the economic-state nomenclatures on the power, and during those ten years significantly slowed down the transition process.



Ownership transformation in Serbia on one hand focused on the nationalization of the big enterprises and on the other hand to the privatization process. Nationalization was handled on such a way that social enterprises were transformed into the public enterprises, or shareholding companies were transformed into the state companies. The main outcome of such a restructuring was that one fourth of the capital in the society belonged to the state. What was the benefit? Stronger state regulation, huge state monopolies and decreased economic competency. It is not necessary to outline that state enterprises are characterized by lower efficiency than private ones. This counts even for the most developed countries, with high-developed working morality and responsibility. It was estimated, that in Great Britain, during the Labourist government, efficiency of the state enterprises was lower for 25 percent of those who were in the private hands. Namely, if the state has the exclusive right on number of services, there is a high possibility of the irrational utilization of the social wealth. State services exclude the possibility of the competition. Due to non-existence of the market test, internal imperative for the efficient use of the given sources does not exist. Irrationality of the business activities is compensated by the price increase paid by citizens. Beside the fact that until the year of 1992, 1607 enterprises were transformed in the shareholding companies, structurally nothing was changed, due to the dominant share of the social capital. Namely, participation of the private capital was only 5 percent: employees and directors realized that with minimal additional capitalization, without the social capital buyout, new enterprise could be created with full control of the employees. Again, management teams used this possibility for the robbery of the available property: stimulating the deliberate bankruptcies, reallocation of the available funds to their own pockets and similar. The main outcome was that number of social enterprises were ruined and up to now existed though weak faith in the privatization process as the only rational model of the economy organization was lost. With such a fast and efficient robbery of the state property, executed under the Milosevic regime, new and sharp social divisions appeared. Statistics shows that from the former egalitarian system Serbia was transformed into layers society in which approximately 10 percent of the people own almost the whole wealth of the society. Worst of all is the fact that those new rich individuals are not the entrepreneurs in the traditional sense, but the capital is in principle invested in different non productive activities – import of the deficit goods, shadow economy, smuggling, broker activities, etc.

Summing up all the above said, privatization process that occurred during the Milosevic regime could be very well described as a “Kleptocratic” policy. The real question is the capability and readiness of the new government to cope with the problem, either to stop such a tendency or at least to mitigate it.

## Privatization Model After the 5<sup>th</sup> October 2000

Fifth October of 2002 symbolizes the first democratic government in Serbia. Joint opposition in Serbia with high enthusiasm started the reform of the economic system, and suggested the new model of privatization. In contrast to the vouchers and shareholders (insider) model of privatization, there was an attempt to use the outsider's model of privatization for factories, which would provide the fresh capital and stimulate the production process. Therefore, negative characteristics of the vouchers and shareholders privatization that did not make any qualitative change, were acknowledged. It would be good to recall what were the main defects of those models of the ownership transformation. Vouchers model of privatization was led by the principle of justice: the idea was based on the distribution of special privatization money (vouchers) to the citizens, which could be used in purchasing the shares of the enterprises. Vouchers could be given to citizens in equal or non-equal amounts, according to the age or work experience. Insider privatization i.e. shareholding by employees, represents the combination of the shares selling in one enterprise and free of charge share distribution to its employees. This model of privatization allows the postponed payments for the shares, thus overcoming the purchasing power problem. The type of the control over the enterprise is not significantly changed – remains in workers hands at least until certain period, i.e. until the share transactions and their concentration raises. However, the obtained results for certain period of time are not those who guarantee the success. There are at least two main reasons. Until the appearance of the dominant share holder (whose interest is the efficiency, economic risk and savings), numerous shareholders would not easily accept the economic risk or high rates of investment, since this is not their short term goal. Second, decision power is too much dispersed: managerial team, shareholder representatives (in this case mainly of the employees), and other funds representatives. Significant dispersion of the decision power without a mistake produces the same effects and anomalies that were characterized for the social ownership – employees are passive shareholders and there is no control and dismissals of the managers (former socialist directors).

Noticed weaknesses point out that a majority shareholder situation is the best situation for the enterprise. This is the owner who owns the whole enterprise or whose participation is enough high, i.e. owns the control package of shares. There are two main ways to achieve such a situation, either to engage in direct selling of the enterprise (not by the public share registration) or by selling the majority share to one buyer (or one group of buyers). However, having in mind the fact that in Serbia, either such a wealthy buyers do not exist, or those who do own a significant amount of capital do not want to use it for such a purpose, the only solution (at least for the social enterprises that could have a success) appears to be a real outsider privatization, i.e. foreigners as buyers.

The main starting point of the outsider privatization is the liberal idea that the only possibility for the economic recovery is the fresh capital influx and strong

market competition. Presumption that only foreigners are those who can in principle provide this financial injection, i.e. show an interest for purchasing of any object that could in long or short period of time bring profit. For an adequate functioning of such a model, there is certainly a need for a law that would allow the possibility of foreigners to become a dominant shareholder, financial transfer, independent employment policy, state non-interference in their business activities.

New Law on Privatization, adopted by the Parliament on 27 June 2001, in principle broke up with the workers shareholdings as the dominant privatization model. The main objective is to use public tenders for selling the majority capital of the enterprise. Unfortunately, such a model is limited only to the most successful enterprises. And, fundamentally, small enterprises will be privatized. According to the Law, following subjects are entitled to initiate the process of privatization of an enterprise: managing board, government and investor who showed an interest.

Outsider privatization faces two problems. The first one refers to the political credibility. Government that supports selling of the enterprises to foreigners could be seen as somebody who resells the national sovereignty. In such a chaotic Serbian situation, this is not a naive accusation, since without at least a silent consensus in the society, successful transition is hardly possible. Second problem refers to the technical problems of selling. Namely, this is the problem of complexity and of preparation procedures. It includes the enterprise evaluation that is a very complicated and demanded process, especially under the presence of the political and economic risks.

Agency of Privatization established by the Government of the Republic of Serbia, deals with the capital evaluation and public tenders announcements. For the time being, foreigners showed an interest only for the enterprises with a rapid turnover (therefore, for the enterprises who could after the debt repayments and minor technological innovations make a successful business). The main question is to what extent there would be a fresh financial influx by those selling's and if on this way only those of potential success would be sold. It is an absurd situation that around 4.5 billions of USD is kept by Serbian citizens in straw mattresses (becoming evident during the exchange of German marks to Euros at the beginning of 2002), thus not invested in neither shares nor in the enterprise purchasing. Therefore, relatively high amount of capital being present in the country is not activated due to still existent investment insecurity in the citizen's eyes.

It is quite certain that the main objective of the foreign investors purchase is good management, re-capitalization, business expansion, reorganization, discipline tightening, and higher entrepreneurship. Still, it should be kept in mind that experience of other countries in transition showed that this model of privatization carries certain risks. First of all there is a possibility that investors act simply as brokers who with strong initial investment raise the value of the shares, sell them at the very high price, and then provoke a rapid bankrupt. Similarly, foreign entrepreneurs for certain period of time (three years) do respect the strict regulation of not having the layoffs of workers, but afterwards, released from such a obligation, they cut the

number of employees on half, and similar. Anyway, inclusion of the foreign capital is a high necessity, including the foreign experience and knowledge, and it is important to keep in mind that both, positive and negatives experiences are of their own value.

Outsider privatization has already started in Serbia, and it should give the initial production impulse. Serbian government is willing to sell 150 enterprises of higher values to foreign investors. There are around 6.000 small and medium social enterprises in Serbia. It is estimated that half of them could be privatized, whereas the other half is in the phase of bankrupt. Still, the main problem remains, what should be done with the non-successful socialist giants? Those enterprises were once the moving power of the Serbian economy, and now with highest financial dubiousness on one hand, and with the greatest number of potential redundant workers, on the other hand. Discussion are very often oriented towards the restructuring possibilities, but having in mind the obsolete technology, almost zero level of production, and the fact that former markets are lost, the question is who could do it and what would be the price. Let's recall the privatization in former East Germany. Successful enterprises (app. 30 percent) are immediately sold to the interested parties; second third is restructured but occurred with very high costs and afterwards privatized, whereas the remaining part is locked. It is only to determine where (to which group) those socialist enterprises really belong.

## **Actors of the Social Dialogue**

The basic principle of any social dialogue is the belief that epochal dilemmas with respect to the basic values of the modern society do not exist anymore. This means that, existing institutional setup provides the basic consensus that changes within the society could and should be made by reforms, i.e. that existent axiomatic values are inviolable. Those values include democratic election procedures, inviolability of the individuals rights, untouchable private ownership, freedom of political and union organizing and gatherings, freedom of information, respectfulness of assumed liabilities and similar. If there would be a need for a philosophical formula describing the social dialogue it would be the friendly-hostile relationship. Actors of the social dialogue defend their own interest using the dialog form that could be very well described as bargaining: the main objective of the dialogue is to reach the compromise that would make all interested parties satisfied.

The basic question is: "If Serbia reached the needed level of the political maturity that would guarantee that such a social dialogue is possible?" Presumption is that all three actors of the social dialogue (Government, Unions and Employers) reached the needed capability and authority to handle a dialogue that would lead to good results. This practically means to question if they accepted rules of the game, i.e. if there is a clear consensus what is or not allowed. If the rules of the game are not fully understood and accepted, social dialogue loses its function. In addition, it

is not of less significance what are the real positions of the dialogue actors, i.e. if some of them have a privileged position and if such a position is sustainable in the eyes of others.

Before getting deeply into the above-mentioned problem, it would be important to see what was the situation in the socialist period regarding the key issues that social dialogue would be supposed to handle. First of all, what was the criterion on the labor force allocation? Market in the real sense did not exist, thus neither having the opportunity for spontaneous labor force allocation. Non-economic criteria existed for both, new labor contracting and factory allocation. Naturally, wage determination was neither based on the labor demand, nor the current supply. Number of employed in the factories, due to absence of the competition and external pressure on workers for the efficiency, was prevailing the number that would be possible (needed) in the capitalistic world. Beside the unemployment problem (mostly resulted from rural – urban migration), new problem emerged, i.e. over employment being still present. An economic analysis shows that Yugoslav worker on average works effectively only one third of the working day. On the other hand, workers, as declarative factory owners practically could not be fired. This was the way in which the syndrome of guaranteed working place was created, regardless the need of the enterprise for such a work. Union, very often being only a transmitter of the political power, had a strong legal weapon against the layoffs. On the same way, received wages did not reflect the real incomes in terms of the achieved economic effects of the enterprise.

At the beginning of nineties, new Constitution was adopted in Serbia, formally making the open space for establishment of the democratic dialogue forms in the political sphere and for adequate shaping of the market economy. However, since at the time present political elite did not commit to radical changes of the economic system (in principle, the same ownership structure was retained), thus even norms with respect to the employment and wages stayed very similar.<sup>9</sup>

There are several legal acts that represent the fundamentals for the social dialogue creation: Labor Law, General Collective Agreement, Law on Employment and Unemployment Benefits, Book of Regulations on the Labor Disputes Arbitrage, Law on Strikes.

Unions legally (by legal acts) gained the autonomy. Namely, three groups of the collective rights were determined: right and freedom of union organizing and acting, right on collective negotiations with respect to the collective agreements, and the right on strike. This means that collective agreement exists for more than ten years. Main characteristics of the collective agreements are the voluntarism and freedom of negotiation and contract conclusion; inclusiveness, and presence of the representatives of the actors in the process of contract conclusion. Signing of a con-

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<sup>9</sup> See G. Krstić, B. Stojanović, "Analyses of the Formal and Non-formal Labor Market in Serbia", in the book, Y. Vacić, G. Krstić, B. Mijatović, B. Stojanović, Discussion papers on the public debate on the institutional reform in Serbia, Belgrade.

tract was left to the representatives of the unions and employers. What union organization is the representative one? The one that is registered by the supervised body, and with majority membership participation. Collective agreement itself cannot provide fewer rights than the existing basic act (Labor Law).

There are general and special collective agreements. General collective agreements regulate the basic criteria for wage determination, additional payments, and other payments and right, obligations and responsibilities with respect to work. Special collective agreements are concluded for certain economic branches, groups and sub groups on the territory of the Republic and are applied for all employers and employees that belong to that branch, group or sub group. Special collective agreements determine the labor price for the simplest work and labor price for typical labor position, and regulate other rights, right, obligations and responsibility with respect to labor relation. Individual collective agreements are signed with each employer and are applied for each worker.

New Labor Law changed the criterion that determines the employers and union representation. Representative employer's organization is the one with majority employer membership in accordance with the General union act. For higher levels of the collective agreements, representative labor union is the one with the membership scope of at least 10 percent of the employed in the branch or the activity for which collective agreement is signed. Having in mind the fact that numerous numbers of labor unions in Serbia exist, and that membership scope cannot be high, it can be assumed that the contract would be signed on the branch level. Representative labor union in signing the collective agreement with the certain employer is the one who joined at least 15 percent of the total number of employed. If none of the labor unions fulfill such a criteria, there is a possibility to make an association agreement, thus giving them the possibility to participate in the process of the conclusion of the collective agreement. In such a case, where the collective agreement is not signed, and the employer has at least 15 employees, labor right are determined by the labor book or by the labor contract. This book is given by the employer, but still before the adoption the employer has to give it to the labor unions for consideration. If such a labor union is not created, book has to be given to the representative branch labor union.<sup>10</sup>

Question regarding the so far experience with respect to collective bargaining could be raised. The shortest answer would be – simulation. Main reason is that such an institution belongs to the market environment setup and it was established here disregarding the quite different ambient. Namely, only in privatized economy real employers would appear in the negotiations (in our case, these were very often only delegated state representatives, since they in fact do represent the state or social ownership), i.e. real labor union representatives. Main negotiators up to now were Government and Chamber of Commerce. According to the current collective agreement, employer can be an enterprise, other organizations engaged

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<sup>10</sup>B. Stojanović, "Non formal Labor Market Regulations in Serbia", Ibidem. 66-67

in public utilities, foreign representation and similar. In addition, organs of the territory autonomy or self-government are considered as employers as well. What are the consequences of the inadequate market framework with respect to social dialogue? First of all, this is the ownership located in the social enterprises, and those social enterprises in principle are not guided by the market principles. On the other hand, they employ majority of the labor force (out of which number of workers is a surplus). This only means that majority of those who participate in the social dialogue in fact represent the non-competent negotiator. Competitive negotiator as an employer can be only the one who is successful in business activity, the one who shows the need for certain labor qualification structure and the one with new employment possibilities in the near future.

On the other hand, private sector, in its offensive phase, is much better organized and market oriented but mainly functions in the area of gray economy, i.e. insignificantly appears as a negotiator. This means that a significant part of our private sector operates without any institutional frameworks and rules, what is not sustainable. Only with its inclusion into the regular labor market and the negotiating process, positive effects and real functioning of the social dialogue as an institution would become a reality.

The importance of this could be verified by the employment statistics. Total employment in the private sector amounts to already 23.9 percent. In contrast to the social sector, number of employed in private sector correspond to the needs of the enterprises. We should keep in mind the ratio of the hidden unemployment. Namely, let's just consider the well known fact that there was a significant drop of the GDP (45.6 percent) in comparison to 1991, whereas the unemployment rate decreased only by 14.6 percent.<sup>33</sup> See Labor market survey, Federal statistic office (Belgrade, 2000)

Such a discrepancy between the real needs and hidden unemployment (app. one third of the employed) found its explanation in avoiding the social tensions. Instead of firing, we had a significant drop in the real wages, increased number of employed on paid or non paid leaves, increased number of pensioners and increased share in the non formal labor market (gray economy). Keeping the social peace was not the only reason for retaining the workers disregarding the lower production level or even in certain cases zero production, but also the significantly high protection of workers. Namely, relatively high costs related to firing procedures are paid by enterprises that anyway faced by bad economic situation.

To a certain degree, this situation positively influenced the expansion of the gray market economy. On one hand, main benefit of those employed who were on paid/non paid leaves (last for years) in the social enterprises was the existence of the health and social insurance, and on the other hand they could work in the non formal sector, though for small wages. On this way, there is a unusual paradox – there is a pressure on the formal labor market by those who are already formally employed to those who are really unemployed. Function of the real formal labor market is lost, and non-formal labor market (gray economy) is becoming a place for

the real labor allocation. All these facts on one hand show the specific situation of our labor market and on the other hand the degree to which the formal institutional solutions do not cover a number of the real actors in the production and distribution.

There are number of very rigid legal acts that inadequately addressing the problem even lead to its own creation. This is certainly the reflex ion of the previous administration of the economy. There are number of non standard employment forms, with flexible way of labor force utilization – part time engagement, agreement on limited duration, self employment, etc. – the forms for which our administration does not have a sense. Data shows that in our case, the share of part time employment in total employment amounts to only 5 percent, and employment of limited duration only 1 percent. Furthermore, part time employment is predominantly used in the disabled cases. If we would only observe the experience of the developed countries and the enormous flexibility with respect to the forms of employment, we will be again assured about the existence of the aprioristic rigid socialistic concept of the past, where positive experiences gained from the practice do not have a meaning, and where the healthy and logical reality is only institutionalized through the legal acts. Hiring and firing procedures reflect the over protection of those who are employed with respect to the employer. This has two negative implications with respect to the restructuring and better labor utilization.

What is the main reason that employers on one hand avoid to fire the surplus of workers (social enterprises), and on the other hand to register those who are employed (private enterprises)? Namely, in the case of the employed for which the need does not exist anymore, employer is obliged to offer the following:

- appropriate new working position;
- appropriate working position with new employer;
- retraining and further education;
- right to buy out the length of service if only 5 years are missing until the legal right for pension;
- payment package amounting to 24-36 wages corresponding to the last quarter.

Social consequences of such inadequate legal framework correspond to:

- Employers are practically forced to use the illegal employment forms that are cost effective and simple. This stimulated the employment in the sector of gray economy, where employees would stay without any protection comparing to the situation of a maximum protection determined by the law.
- Collective agreement includes the minimum wage clause. Such a minimum wage is not the result of the market forces but the negotiations, where in principle, unions and the state set up the minimum wage that is significantly higher from the one the enterprise could pay. This is the way in which both, unions and the state collect the merits, not counting the negative effects that are facing the employees and employers (but above all the employees). On one hand, state accordingly can charge high prices and taxes. On the other hand, unions, keeping wages relatively



high appear as good negotiators. And the real effect is that employer chose the non-formal labor market, without any form of the labor protection.

Social dialogue between employers and unions has a sense only in the case where state acting as a third party has a non biased and corrective role, and if stays immune to different pressures by both sides. Secondly, there is a need for one enough efficient formula that would melt the acute dispute between the efficiency need (means a great reduction in the employees rights) and labor protection. New labor law is ambitious enough in following the efficiency criteria. Only increased efficiency can lead to higher living standard, investments and increased number of job placements. This will encounter certain problems –temporarily unemployment, relatively low wages and higher level of the uncertainty. However, in the long run, as soon as the healthy enterprises keep up with the production and good disposal of goods, it is possible to expect the greater labor demand and higher wages. Delaying the process would only have negative consequences. It is understandable that the state has to provide certain social programs, including the retraining programs and programs that increase the labor mobility. However, the key factor is the rapid privatization on one hand and foreign investment attracting on the other side. Such a broad approach is the only way to melt the economic stagnation and overall apathy.

Crucial question is if those changes should follow a rapid or gradual path. Gradual reforms are an attractive solution, but easier for implementation in the stable societies, (enough resources to cover high transaction costs). Poor societies are more predetermined for rapid reforms, more efficient and cost effective, though painful. However, those are not so attractive from the political point of view. Namely, gradual reforms have a lower pressure to any of the participants, what is good in the eyes of the social piece, but are certainly a bad corrective mechanism of the stereotype way of functioning. Main question is if all relevant actors of the social dialogue can reach a consensus.

# RECOMMENDATIONS-SUGGESTIONS OF THE POLICY MEASURES FOR THE DEVELOPMENT OF THE SOCIAL DIALOGUE IN SERBIA

## Recommendations 1: Reform of the Legal System

The federal institutions are too big and too expensive. Very often the activities of the republican institutions are duplicated. At least, rationalization could be done in the following sectors:

- 1.Reduction of the military cadre** – Military: diminishment of the professional military cadre and the number of the soldiers serving the military service by 50 percent.
- 2.Reduction of the Ministry of foreign affairs** – The Ministry of foreign affairs is too big. The Number of staff members in the country should be decreased by at least 60 percent, and the number of the embassies and consular representative offices should be halved (now there are around 80 of them).
- 3.Rationalization of the election procedure for the members of the federal parliament of Serbia and Montenegro** – an intermediate election procedure should be introduced, in such a way as to copy the republican parliament structure to the federal level. Significant funds would be saved, and the possibility that a minority of the country represents the country would be avoided, as was the case with Montenegro up until now, where it's citizens did not want to participate in the election process.
- 4.Rationalization of the election procedure for the state presidential elections** – indirect rather than direct election procedure for this function should be introduced.
- 5.Decrease the level of the custom duties** – There is a need for a radical decrease of the custom duties that protects the non-rational economic branches. Custom duties that exist at the moment in fact protect the monopolistic status of many producers (agricultural products, food products, metal product, automobiles). The state needs to give up the monopoly on the oil and tobacco import.

Republican government has number of responsibilities regarding the legal framework that in principle influences the functioning of all segments of the society, thus including those of the social dialogue. Therefore there is a need for the following:

- 1.New Republican Constitution should be adopted** – there is a need for the new Serbian Constitution and set of the key relevant laws for the state functioning.
- 2.Rationalization of the Serbian election presidential procedure** – indirect rather than the direct republican presidential election procedure for this function should be introduced. This would lead to the strengthening of the Parliament role and the election campaign costs would be decreased.

- 3. Court of justice reform** – Court of justice apparatus should be separated from the executive power. There is a need for the radical increase of the efficiency of the court procedures and sanction implementation. A clear limit on the process duration should be introduced, i.e. limit until when certain type of the sanctions needs to be implemented. There is a need for tightening the punishment measures for stamping the crime out. This includes the prohibition measures for the economic activity to those with criminal record, as responsible persons in the business activity. Court procedures are long enough, efficiency rather low, assumed liabilities are paid very slowly or not at all and all of this due to the system that is protecting the debtor.
- 4. Adoption of the Bankruptcy law** – There is an urgent need for the adoption of the Bankruptcy law and consistent application of the Law on insolvency and liquidation of the insolvent enterprises.
- 5. Strengthening the financial police control** – There is a significant cash flow in the shadow economy, leading to a significant tax evasion, transaction non-transparency and high degree of the corruption. Certain estimations say that at least approximately a million people are engaged in the shadow economy.

## **Recommendations 2: Promotion of the Economic Ambient**

- 1. Decrease the number of public enterprises** – The number of public enterprises should be halved. Beside the fact that the losses of those enterprises amount to 27 percent, they represent a significant obstacle for the creation of the real market economy. The greatest losses occur in the public utility enterprises. At the same time those are the biggest state debtors and tax avoiders.
- 2. Cheaper state services** – can be obtained by reducing the direct and indirect expenditures from the 54 percent of the gross product to 30 percent within the two years period. Future state organizations should be financed not in the ratio of 95 percent to 5 percent on the Serbian burden, but equally 50 percent to 50 percent.
- 3. Deregulation of the activities of the big economic systems (electricity, communications, transportation)** – A way to do it is to introduce the competitiveness among those enterprises, leading to the efficiency increase of at least 30 percent. As big monopolies those enterprises are not rational in the business activities. For example, electricity sector employs double the workers above the needed level (60.000 people).
- 4. Deregulation of the economic life** – The Number of the rules, laws and sub acts that diminish or disable the free market transactions should be decreased. Those regulations serve as coverage for the subventions, monopolistic behavior, hinder the free entry into the business activity, discourage the foreign and domestic investments.
- 5. Rationalization of the procedures for the establishment of the new enterprises** – A radical decrease of the number of licenses needed for the establishment of the new enterprises, instead of today's 35, to be decreased to the number of 17,

what would halved the approval time period (at the moment of half year duration). For example, the registration of an enterprise in Canada lasts two days and it costs 280 Canadian dollars. There is a need for the institution of a “silence administration agreement” meaning that if the administration does not give a reply on a request in a certain period of time, the registration is allowed.

**6. Privatization process should be de monopolized from the state Agency of the privatization** – This would be possible through creation of the private privatization agencies. State privatization agency would be in charge of the privatization of the 100 largest social enterprises; whereas the other enterprises would be privatized by the private agencies.

**7. Increased transparency of the privatization process** – This could be done by changing the basic criteria for the tender privatization. For now, there are four different criteria that decide about the tender enterprise purchase (financial offer, social program, planned investments and ecological protection), in fact giving the legitimacy for discretionary decisions. There should be only one purchase criteria which offers a higher price, whereas other elements would be regulated by equal rules for all owners.

**8. Number of the needed licenses for building the business centers should be decreased at least by half** – This could be done by its compression and better state administration organization. (At the moment, there is a need to get 30 licenses from at least 10 different institutions and the time framework correspondents to half of the year).

**9. There is an urgent need for the Law that would allow land purchasing in Serbia by foreigners** – According to the current law, foreign citizens do not have a right to buy land, even if they build a business center. They can only get a right to use the construction land, but they cannot alienate it, but only return it to the state. This is the exact way to re-stimulate foreign investments.

**10. There is an urgent need for new Bankruptcy Laws** – there is only one Law on the insolvency procedure in Serbia. This means that there is a possibility for debt making, enterprise liquidation, non-payment of the debts and again establish the enterprise. Such a legal solution stimulates the criminal activities.

**11. Number and level of taxes should be decreased** – Above all, income tax that de-stimulates the employment policy should be decreased. Instead of the current sales tax, a value added tax (VAT) should be introduced, that is common for almost each European country. This implies sale tax, tax on the financial transactions and tax on the capital gain should be canceled and instead of those, VAT and synthetic tax should be introduced. This would encourage the investments, legalization of the gray economy would be initiated and entrepreneurship spirit would be strengthened.

**12. Fiscal decentralization** – Municipalities should be given a right to determine certain type of the taxes. On this way, poorer municipalities would be able autonomously to influence the investment inflow and competition for the investment activities would be created.

- 13. Procedure on the stock purchase should be changed** – Decree that states that the share holder should announce the sale 3 times within the six months period of time within the enterprise before he sells by its own will, should be canceled. This is the exact way how to protect the managers and ownership concept loses its value.
- 14. Number and level of the special taxes (luxury goods) should be decreased** – there is no justification for such a treatment that kitchen salt, non-alcoholic beverages and oil derivatives represent luxury goods. This is the way to de-stimulate the fraud and smuggling activities.
- 15. State luxury taxes should be decreased** – there is a need to decrease the tax on the absolute transfer of rights, amounting to 5 percent of the value, and that significantly endangered the real estate transaction volume.

## **Recommendations 3: Promotion of the Process Law in the Function of the Market Economy Establishment**

- 1.Changes within the Lawsuit Law** – According to the new law, debtors would not be favored with indefinite time of the lawsuit procedure. Law on the executive act would provide following improvements:
  - a. Shorten the period for the late payments from 8 to 4 weeks;
  - b. Shorten the period for license approval from 40 to 20 days;
  - c. Shorten the period for execution of the court procedure from 40 weeks to 12 weeks.
- 2.Acceleration of the privatization process** – Privatization of all social enterprises should be completed in the shortest possible period of time and at least 75 percent of the state enterprises. Privatization would enable the appearance of the real employers, those who operate efficiently.
- 3.Changes within the Labor legislation** – Flexible employment forms should be introduced (employment of certain period duration, part time job opportunities, etc.). Current legislation is inadequate for the capitalistic economy and stimulates the gray economy on the labor market.
- 4.Change of the firing procedures within the Law on employment** – It should not be expected that the employer that fires more than 10 percent of the labor force (in the enterprise with more than 50 employed), to create a social program for redundant workers and presents it to the representative union. Again, the employer deal with the social issues rather than the production.
- 5.Decentralized negotiation system between the employers and unions** – Each enterprise should have its own business policy according to the strategic plan and regulate the relationship with its employees. The system is favorable even to unions since the interest of the employees is to have rather direct negotiations on the lower level.



# **SOCIAL DIALOGUE IN SERBIA – PROBLEMS AND PERSPECTIVES**

## **Introduction**

Serbia, will in the next couple of years face a very difficult and painful process of the institutional reforms, economy restructuring and privatization process. Number of empirical studies show that our country in fact follows an economic and social path of other countries in transition, thus consequently, the year 2000 represents the turning point of the transition process in our country. Even if the current moderate positive general economic trend would continue, those trends would not be felt among the population. This among other things means that unfortunately already high unemployment rate and with its moderate increasing trend after the 2000-year most probably would be, thought temporarily even higher. Inequality would be increased and real wages and living standard of the majority of the population would be decreased. Some groups would be hurt to a higher degree than others. Some of the inquired rights are in the process of its termination or will be terminated soon, and some will be to a certain degree limited.

Those processes open the real potential for social conflicts and political instability that can weaken the reform attempts thus endangering its fulfillment. Additional risk factors represent also the high expectations after the democratic revolution of 5 October together with the self-management labor relations tradition. New government is neither facing new questions nor those of less importance than in other countries in transition. Therefore, how the transition costs should be shared? Would it be possible to define the optimum speed and reforms order in Serbia and Yugoslavia? What would be the way to avoid the entrance in the magic circle of populism and of political-business circles?

One of the possible ways of the interpretation of the non successful presidential elections in Serbia at the of September and begging of October 2002 could

be the free-part division of the electoral body: on one end “hard core” reform advocates, then the middle group that consisted of the ambivalent group of those that did not reject the necessity of the reforms, but not being satisfied on the way the reforms were carried out, and on the second end were the open reform opponents. Such a division of the electoral body closely corresponds with the results that G17 Institute has obtained in both surveys on the financial status and attitudes of the population, conducted in the mid of the 2001 and 2002, with the stable one third of population that could clearly see themselves as objective and subjective transition gainers, other third of those who could not estimate or see any significant changes in its financial situation and social status, and last third of the population that belonged to the group of the clear losers, where the financial status has been worsened after the October 2002.

Retaining the social cohesion, obviously will not be a simple task in the situation where on one hand we have a very sensitive reform moment and on the other hand a rather complex political situation re Serbia and Yugoslavia (state union of Serbia and Montenegro). This text is trying to point out to the crucial role that social dialogue, crowned with the social agreement on the national level among the representatives of the executive power, association of employers and all other relevant union confederations could and should have in the most sensitive period of transition process that is just about to come.

## **Serbian Economy Before and After 5 October**

GDP decreased more than double in the period between the eighties and nineties. From middle developed country Yugoslavia transformed into the country with the GDP of below or about 1000 pc, thus qualifying for the IDA (*International Development Agency*) conditions of the World Bank, corresponding to the poorest countries. Visible and even more invisible inequalities increased, contributing to the non-proportional increase of grief and poverty. Poverty changed its character: it expended from remote areas and places of traditionally excluded ethnic minorities such as Roma population, to workers suburbs and settlements, sometimes, like in Kragujevac, swallowing entire cities. During the 2000, average net salary amounted to less than 100 DM. However, to be employed in the legal sector, even with the miserable salary, was – and still is – a hardly achieved dream for at least one quarter of the labor active population.

The most difficult time for the population was the beginning of the nineties, the time when old foreign currency savings were frozen; foreign currency was withdrawn from the straw mattresses with the assistance of the pyramidal banks, and dinar savings and incomes were devaluated by hyperinflation. Economy was faced by a serial of shocks, among which the most difficult were dismantling of the country and traditional markets lose, sanctions, hyperinflation and NATO bombing 1999, with the total, conservatively estimated damage of 30 billion USD.



First task of the new government was to put an order into the chaotic situation with respect to the monetary and fiscal policy. Almost half a century ago, German economist Ojken noticed “economical stability is not all but without it all is nothing”. Shortly, prices were liberalized and shortages eliminated, unreal and parallel currency system was abandoned, fiscal system simplified and forgotten principle of the budget unification was introduced, tax collection efficiency was raised. Number of important reform laws was adopted, above all the Law on Privatization, and a bit controversial Labor Law. Still, recalling the first part of the Ojken’s sentence, the macroeconomic stability is not all. Long-term economic stability means macroeconomic stability plus economic growth. Long-term political stability is not maintainable without a sustainable economic growth. This opens number of questions with respects to the threats that need to be avoided on such a thorny reform path. In the case of Serbia, with its very high unemployment rates and the absolute and relative poverty rates, it might be the case that, economic growth would not be enough if not followed by the simultaneous employment growth and poverty reduction. In other words, “growth without new job placement” should be avoided, phenomenon that is in the western European countries known as “*jobless growth*”.

It is not the case that workers or that population is not reform oriented, thus making the period of the “non-regular politics”, with reformists having the open hands for painful cuts, not possible. What makes the “non regular politics” impossible or at least adventurous, is the lack of material resources, or external options for those who should be hit by the reform.

Chosen method of privatization, no matter how economically rational could be, represents the additional risk factor for the peaceful reform process. Stimulations given to the workers according to the Law of 2001 were weaker comparing to those that were stated in the Law on the insider ownership transformation. First year experience on the Law implementation is rather mixed. Again, even here it is impossible to tackle all the details and difficulties of its practical implementation.

Obviously, there is a verified need for the real social dialogue, that would ideally, in relatively short time lead to the sustainable social consensus, expressed and documented in the form of the social pact, not just on the basic objectives and directions, but on the means, methods and acceptable distribution of the transition costs with respect to the different levels of the economical and social structure.

There is an additional factor that should be kept in mind. In the light of the European integration, long-term strategic goal of the country should be inclusion of the European legal solutions and the best practice into the domestic institutional setup. In other words, Serbian and Yugoslav social partners should even now enter into the preparatory phase for the social dialogue on the level of the European Union. Universally, social dialogue is of the permanent significance for achieving and maintaining the stability and social cohesion in each developed plural democracy.

## Social Dialogue in the Federal Republic of Yugoslavia

Initiative on the establishment of the permanent tripartite body involving the representatives of the Government, Unions and Chamber of Commerce (that used to be until recently the representative body of the employers in the process of the collective bargaining) on the Federal level came from the Federal union center (SSSJ), relatively quickly after the FRY constitution, in the second half of the 1992. This was a unique possibility for the SSSJ survival and reaffirmation due to the complete subordination by the Republican centers. Other actors did not show too much of the enthusiasm regarding the idea. In this respect, the Social council was established only in 1994 (FRY Official gazette, n. 81-94), and with its work it started by mid of 1995.

Social council had a very narrow panel of the authorities, exclusively of the advisory and consultative nature. It acted as the Federal organ, and not as the independent body that would use only its technical assistance. There were two member categories: permanent members and those on call. Council members were chosen from the following structures: expert scientific workers, members of the Federal government, parliament members and those that represent the unions and employers associations. "Official" union was only the one that would be recognized as the representative one, and Yugoslav Chamber of Commerce, even in this case represented the Employers.

From the very beginning, SSSJ was not satisfied with the offered concept of the Social council, but still accepted, hoping that there would be a chance in the future in getting the broader authorities mandate and more precise definition of its tripartite character. Being part of the Avramovic working group that dealt with wages, taxis and pensions (3P), SSSJ presented a new concept of the Social council that would have a more significant role. SSSJ demanded that the level of the guaranteed earning for FRY should be set by the Federal government, on the suggestion of the tripartite Social council. Alternatively, there was a suggestion that the level of the guaranteed earnings should be set by the Republics, again still on the bases of the jointly determined criteria set on the federal level. Those suggestions were not accepted at the end.

Further subordination of the Social council showed that the pick of the tripartite harmonization was practically achieved in the 3P working group participation. Meeting of the Social council were rather rare, often together with the Economic council, having an additional diluted effect on the specific role that the Social council was suppose to have. By the end of the nineties, with the aggravation of the relations on the federal level, the activity of the Social council was practically frozen.

Existence of the Social council during nineties led to the following conclusions: real social influence of the social interests harmonizing body corresponds to the legitimistic level of the actors involved in such a body, and that the presence of the "independent" or "respectful" experts cannot be the substitution for non pres-

ence of some of the key actors of the industrial relations, such as the independent unions and real employers associations.

## **Actors and Institutions of the Social Dialogue in Serbia After the Democratic Changes**

The most relevant document that officially institutionalizes the social dialogue in the post-Milosevic Serbia is the *Agreement on the Establishment, Mandate and Performance of the Social Economic Council of the Republic of Serbia*, as of 2 August 2001. This consultative body, in contrast to the previous quasi-tripartite institutions, has been established on the bases of the agreement of the collective actors, thus not on the bases of the Governmental decision or a decree.

According to the Agreement of 2 August 2001, main objectives of the Council were: establishment and achievement of the democratic dialogue among the three social partners on the core social and economic questions; monitoring, consultation and suggestions with respect to the adequate solutions regarding the labor and social rights protection during the privatization process, in the field of the labor legislation and other regulations that regulate the financial-social status of the employees and employers; joint initiatives with respect to the changes of the current acts and adopting a new legal and sub legal acts before the supervisory bodies; suggestions in respect to the labor social policy orientation in the transition period; monitoring, evaluation and consultation with respect to the effects that price and salary levels changes could have on the status of the employees and employers; feedback communication on the crucial questions where there is a need for a consensus among the social partners; promotion of the social dialogue on the local and micro (enterprise) level; prevention activity with respect to all important issues related to labor of all three social partners; and peaceful resolution of all controversial issues.

There are nine members of the Council, three representatives of each, State, Employers and Unions. Each social partner has a freedom to nominate its own Council representatives, according to its own election rules. In addition, there is a possibility for the expertise assistance in relation to the questions that fall into the Council mandate. According to the rules, decisions are reached by consensus. In the cases where there is no possibility for the consensus, attitude, i.e. decision is reached after achieving the two-thirds majority of the Council members. Work of the Council is public, and its activities and achieved results are communicated to the public through media.

Chair elections are held on annual bases using the rotation method among the Council members. For better efficiency of the Council, creation of the working bodies is advocated. On the bases of the Foundation agreement several working groups dealing with specific issues were created, i.e. working groups in relation to

the labor and social rights protection in the privatization process; labor legislation; social policy during the transition period; environmental and labor protection; protection at work.

The process of the Social-economic council creation experienced number of controversial situations. Union confederation, that in fact initiated its establishment, Branch trade union “Independence”, being quite unsatisfied with its weak structure, refused to join the other two Union centers in the Council. Aggravation of the relations between the State and the majority Union, Association of Independent Unions (SSS), during the new Labor law elaboration, adopted in December 2001, paralyzed the activities of the Council.

Certain improvements in the work of the Council and the indications that its structure could be completed were seen several months after the New Labor Law was adopted. Simultaneously, as a part of the Serbian Republican government campaign “Serbia on the Right Track”, social-economic councils on the local level started to emerge. Very often, representatives of the Branch trade union (UGS) “Independence” participate in their work. In addition, leaders of the Association of Independent Unions, just before the Election congress by the end of April, where the pro-Milosevic part of the Union management structure tried to regain the power, realized that relations with the executive power should be normalized. Government was certainly in favor of the normalization of the relations with the two main union centrals, being aware of resulting positive publicity. Industrial relation was improved to such a degree that the *Agreement of the Promotion of the Work of the Social-economic Council of the Republic of Serbia* has been signed.

The Agreement, signed on the 15 April 2002, in fact represents the amendment on the Foundation agreement as of 1 August 2001. Preamble of the Agreement emphasized that State, representative unions and representative employer unions finally recognized the key role of the social dialogue in respect to the creation and implementation of the economic policy. Parties are dedicated to work on the identification of the possible solutions for the economic growth promotion and employment possibilities for all and social cohesion. It is confirmed that the Council is created on the voluntary bases, and will be legally institutionalized in the “foreseeable time”.

As a general principle, Council will try to reach the consensus in decision-making. Book of procedures is part of the Agreement. In addition to the existent five working groups defined by the original Agreement, by the amendment as of 15 April 2002, one more working group was created specifically dealing with the collective bargaining and peaceful resolution of the collective disputes.

Plenary Council sessions are held behind the closed door, whereas the reports and opinions are of public domain. According to the need, Council can organized press conferences, seminars and other activities promoting the work of the Council.

Agreement signed on 15 April defines the main tasks of the Council:

- Promotion, through social dialogue, of the consensus on the principles and poli-

cies regarding the efficient development and management of the national economy, achievement of the social cohesion, and in this respect advisory role to the Government;

- Promotion of the collective bargaining and peaceful conflict resolution on lower levels;
- Defining the list of the peacemakers, intermediaries and arbitraries;
- Concluding, when appropriate, tripartite social agreements on the republican level.

Issues that could be raised by the Council:

- Macroeconomic framework;
- Employment policy, labor market and income issues, including the issues with respect to the determination of the minimum wage;
- Regulations with respect to the labor conditions and protection at work (health and security), including the public sector;
- Education, health and social protection and demographic issues;
- Gender equality, elimination of any kind of discrimination, including the discrimination with respect to the Union membership;
- Privatization and other issues regarding the structural adjustments;
- Regional development;
- Issues regarding the environmental protection;
- Competition and productivity.

Draft laws with respect to the above mentioned issues should be referred to the Council for additional considerations and opinions before its final Parliament submission.

Council activities would be supported by a small secretariat giving the administrative, technical and expert support. If needed, Governmental agencies, such as the Republican Statistical Bureau, would give the technical support. The Government will fund secretariat, whereas it is expected that unions and employers would give additional administrative and financial support to the work of the Council, its working groups and commissions.

Agreement was signed by the following parties: Dr. Zoran Djindjić, on behalf of the Serbian Republican Government, then the president of the Association of the Indendent Unions of Serbia, Mr. Milenko Smiljanić, president of the Association of Free and Independent Trade Unions, Mr. Bratislav Djurić, president of the Branch Trade Union “Independence”, Mr. Branislav Čanak on behalf of the unions and the president of the Serbian Employers Association, Mr. Nebojša Atanacković on behalf of the employers.

Next few months after the Agreement has been signed, gave an impression that there was a certain progress in respect to gaining the mutual confidence, above all between the Government and two biggest unions, SSS and UGS “Independence”. For example, new draft Law on Employment and Unemployment Benefits was discussed several times on the working group forums of the Council. Still, accumulated dissatisfaction in respect to the overall functioning of the Economic-social Council, and the Government attitude towards the actors of the

social dialogue, made again UGS “Independence” to step out from the Council by the end of the September. Simultaneously, SSS announced the similar move in the near future if the progress on the functioning of the Council would not be seen. The fact that straining of the relations between the unions and Government is happening in the shadow of the political turbulences and crises due to the non successful Serbian election could only aggravate the situation.

## **Need for “Unusual” Social Dialogue in Serbia**

At the moment, public awareness on the benefits and significance of the social dialogue hardly exists. This is not unusual for one post-communistic country, with the long tradition of the strong and authoritarian state. Fundamental power disequilibria, with the relatively weak unions and even weaker associations of employers, puts the State into the position of “building” and raising the social partners and shaping the structure of the social dialogue. Inevitable this leads to a temptation that only those who show the readiness for the understanding of the Governmental policy and attitude would be acknowledged as legitimate partners.

Only until recently, the Union scene in Serbia could be divided into the two blocks, with the former official union, SSS, on one hand, and with the variety of new independent union confederations and individual unions on the other hand, led by the UGS “Independence” (founded in 1991) and ASNS (founded in 1996). Relation between the two blocks could be described rather as a conflict than cooperation; the same implies for the interrelations within the block of new independent unions. Old union needs an overall restructuring; new unions are still lagging behind the old one by their strength, very often divided, and still need to build as real unions, since the way of their functioning is very similar to the functioning of the non governmental organizations.

Employer’s organizations are weak due to primarily the fact that the privatization process is still at the very beginning, after three non-successful attempts in the nineties. Second, majority of the most significant private enterprises, created in the last ten years, were either branches of the Milosevic advocates or the adventures of the brave individuals ready for a business under the conditions of high risk, institutional uncertainty and soft legal constraints.

Now, the existent institutions of the social dialogue on the national level, though formally created by the tripartite agreement, essentially are created by the state with very limited formal responsibilities. Functioning of the Council is still non-effective due to the refusal or hesitation by the main union centrals to assist the work of the Social-economic council.

Obviously, huge task is waiting for Serbia, first, in the domain of the formal adjustments of the regulations of the social dialogue with respect to the harmonization with the European Union, and second, in the domain of the practical implementation of the recommendations and directives of the European Union.

In confront to the situation in the European Union, where social partner practically jointly create the legislation, social partners in Serbia had a minor impact in the process of the social and labor legislation creation and the creation of the labor market and social policy. Even, the formal institutionalization of the social dialogue is at the very beginning – tripartite body did not even become a “chat room”, and not even mentioning the place for interest harmonization and decision-making. With respect to the process of the social dialogue creation and the relatively long history of the process, it is worth mentioning that the pressure of its creation was rather coming from the top or aside, than from the bottom.

This is understandable, first due to the fact the civil society as whole in Serbia, at the beginning of the nineties was not developed. By the end of the decade, however, significant progress has been achieved, making the civil society to be one of the main catalyst and active actor of the democratic changes.

Second reason of such a slow process can be found in an already mentioned unequal negotiation power of the social partners, again not unusual situation for this transition part of the world, where the unions being more or less an open transmission of the ruling regime in the post-communism era, were facing a difficult reform process. Those who needed the transformation, those who were just in the emerging phase, were certainly passing through a phase of gradual capacity strengthening.

On the other hand, privatization process during the nineties alternately started and then was suspended, thus reducing the chances for the constitution of the employer’s organization based on the strong fundamentals. Practically, State was more powerful than other social partners. On this way, any initiative for the creation of the social dialogue exclusively depended on the state will, particularly during the international isolation.

After the changes, there is a turning point, in particular due to the pressures on one hand by those who traditionally insisted on the creation of the social dialogue, i.e. unions, and on the other hand by the international organization – such as the International Labor Organization and European Union. Now, we are, in fact, as the society gaining an understanding on the importance of the effective social dialogue in terms of fulfillment of certain international obligations, as a prerequisite for future joining to the international institutions.

The most significant positive sign in the post-Milosevic Serbia was the Agreement on the Creation of the Social-economic council, in August 2001. And, again, formally, it does fulfill the basic conditions in terms of the equal rights of the actors that are part of the social dialogue, and actors who do reach the agreement. Therefore, it is not the institution, established by the Government by a decree or a decision, but a voluntary institution, in which the actors, at least theoretically share the responsibilities.

However, from the very beginning we witnessed the reality of the non equal negotiation power of the partners in the social dialogue, that made predomi-

nantly the union centrals to feel subordinated and sometimes deceived, for example, adoption of the Labor Law.

It seems that revival of the Social-economic Council represents the end of the first phase of the establishment of the social dialogue in Serbia. It was just about the time. Certainly in the next couple of years we will not skip the destiny of other countries in transition, as we hoped a bit on the beginning, in fact before feeling better, number of people will have to face a worse situation.

And the fact, that two years are already gone, tells that the period of unusual politics is over, as the reformists in other transition countries usually call it. Period when anything passes due to the excitement felt by the population about the democratic changes, thus giving the government the support for unilateral reform implementation.

This time is gone, and obviously the time is now, lets paraphrase the popular transition metaphor, for the unusual social dialogue. This social dialogue requires the good will of all social partners, it requires invention and creativity – since the problems we are facing now are of such a range that cannot be resolved in the short time and problem after problem, but an overall approach is needed.

This is the reason for the simplifications of the meaning of the social dialogue nowadays, it is the macro approach, and within that the tripartite mechanism. In principle, social dialogue should cover all levels, from national to the local one. On this way, social dialogue would be more than the tripartite body. It does not develop only following the top-down approach (what is in fact the necessary element for its development on the beginning) but it grows also from the bottom, following the needs of the local community, enterprises, economic branches or activities. Such a “*grass root*” social dialogue naturally involves all interested parties and relevant actors of the civil society.

The next element of the “Unusual social dialogue” should be the development of the new collective bargaining approach, on some way being a heart of the social dialogue. Disregarding the fact that Labor Law introduced the concept of the elective collective bargaining, what is a good solution in private enterprises, still, social dialogue including the collective bargaining is very much needed in nowadays circumstances in (still) the social and state enterprises. In those enterprises, there is a need for simultaneous attention (resolution) of the both, salaries and employment.

Any conducted survey showed that at least 50 percent of the employees fear to lose a job. Approximately, one third of them are convinced that their qualifications and skills are not good enough for the market economy. Having in mind that such a fear is so spread, and on the other hand that restructuring tasks are so complex, there is an idea to use the instrument of the social dialogue, on each level, that means on macro level, sector level, local level, on the level of some very much wounded big enterprises or cities, factories, etc. Social dialogue should be used as a forum for unique and simultaneous resolution of the whole package of social problems. Therefore, not just the common issues such as the wage level, working condi-



tions, but and maybe even on the first place joint struggle against the unemployment, joint discussion on the labor surplus problem.

An advantage of such approach is that somehow unions and state have the same picture in front of them, having the capacity to solve one equation with two basic components, wages and employment. Nowadays practice, focusing on the flexibility and collective agreements electivity, used exclusively for the tariff solutions and on the other hand, restructuring problems seen as the problems to be dealt only by the employers on the micro level, maybe with the assistance of the Government and governmental agencies, hardly would lead to optimal solutions. Simple saying, conflicts would emerge simultaneously and will be multiplied, absorbing the energy of the social partners on two ways: first, when speaking about the wages and working conditions and secondly, when negotiating on the employment level, firings, redundant packages, i.e. on the issues that had a popular name in the past, social program.

For the success of the “Unusual” social dialogue there is a need that both sides in the negotiation process are willing to accept certain renunciation. Employer’s side – technically, in fact very often, Government – should give up the reduction negotiation approach and accept the attitude that it is better to adjust the “social program” with the unions through collective bargaining than to insist on its unilateral decision making as part of the business plan restructuring. Unions, on their side, should accept the discontinuity as the negotiation reality, i.e. not to insist on the inherited, in fact “acquired”, in principle paper rights from previous collective agreements with respect to the labor surplus solutions.

## **Instead of the Conclusion: Social Agreement for the Reform Continuation in Serbia – a Proposal**

Honeymoon of the reformists and population, the so-called unusual politics era, is irretrievable over. Maturity time is on a way, where financial stimulants mean more than the moral ones. Beside the fact that each transition is a separate story, it seems that there is something in common. In many cases, the most difficult time for both, reformists and population is somewhere between the third and fifth year from the beginning of the reforms. This is why there is a very low surviving rate of the first democratic governances in the East and Central Europe after being on the power for four years.

Serbia has already arrived to the turning point, maybe the decisive moment for the further success of the reforms, but this is very much covered and hardly seen due to the number of bizarre political conflicts. Strong foundations for the market economy restructuring were set in the relatively short time: reintegration into the international financial institutions and external debt restructuring, inclusion into the European integration processes, macroeconomic stabilization and successful inflation taming, reform of the banking system, fiscal reform.

However, those achievements are not yet fully secured, until the economy is not set on the strong foundations. Real sector restructuring, final settlement with the social ownership and market transformation of the public enterprises, are the key challenges for at least couple years ahead. Therefore, cutting alive tissue of the economy is still ahead of us, being rather painful. The core question is if we are equipped enough and ready for such a complex surgery?

Problems that the reform implementation process is facing are always greater that could be expected before the beginning. Privatization is still lagging behind, beside the optimistic messages of the Serbian government. There are many reasons, just to begging with the overall world recession, then the regional risk, that means the issues that are out of our control, up to the lack of the effective domestic demand, limited banking possibilities to support the investors and kids diseases of the capital market being in its emerging phase.

If the surgery and recovery last longer than it was expected, costs are also increasing. If somebody could assume that the transition recession could have been avoided on the bases of the relatively high economic growth rates of the post-conflict countries in general, nowadays those hopes are beginning to fade.

The crucial missing issue is the **social agreement**. Big union centrals predominantly agree with the statement that neither social dialogue instruments, being a prerequisite for such an agreement, do not function the best. Social-economic Council, that consists of the representatives of the Serbian Republican Government, employers associations and three main union centrals, established in August of 2001, revived in the April of this year, but still it seems that there is a mistrust and understanding between the union and Government.

Understanding and trust are the key words for the success of the social dialogue. In the situation like ours, where there is a clear non-balanced negotiation power of the actors of the industrial relations, with the Government as the strongest actor, it is therefore clear that consequently it has then the biggest responsibility. Only its open hand could not be interpreted as sign of weakness.

It should be mentioned that three existing unions centrals, with nowadays look, are more than the legitimate and respectful partner for the Social agreement conclusion. Beside the fact that figures on the memberships are unreliable, without any doubt they cover the majority of the employed in the formal sector. Association of the Independent Unions of the Republic of Serbia is liberating itself from the non-desired image of the “state” union, and it is still the biggest in terms of the membership and the most developed in terms of the infrastructure. UGS “Independence”, with its clean past and jealously kept independence from the political party’s influences, achieved a lot in terms of the organizational and infrastructure strengthening for the past couple of years. Association of the Free and Independent Unions (ASNS) as a DOS member gave its active contribution with respect to the establishment of the democratic power.

Comparative practice of the developed countries and countries in the transition process recognizes two main types of the social pacts. First one is the classic

one, and we could call it defensive. Main objective of all actors is the damage control, related cost distribution that comes as a result of the restructuring measures or savings among the three main social partners (tax payers, employers and employees).

Second type of the agreements could be called offensive, because it does concentrate only to a compromise solution with respect to the cost distribution, but tries to define the consensus vision of the actors on the long term economical and social development strategy, as well as on the means and ways that would lead to the vision realization. Without any doubt the most known and famous is the example of such an agreement in Ireland in 1987, which led to a spectacular economic growth during nineties. Irish model serves as an example for number of similar pacts concluded in the European Union under the name of the Pacts on Employment (traditional component) and Competitiveness (new, strategic component).

In my opinion, the most appropriate type, having in mind the current situation and maturity of the actors of the industrial relations, predominantly of unions, is the second, strategic type. Ministry of Science and Technology has already prepared the two working volumes of the Serbian development strategy until the 2010; the missing part is the final touch and clearly defined set of priorities. This is the excellent foundation for the joint efforts of the Government, experts, representative of the employers associations and unions.

Strategic vision is needed even in the context of the most difficult and painful problem for which the unions are worried the most – to protect the members from the unemployment and poverty. Recent study of the G17 institute, from May 2002, showed that more than a half of the total number of employees is afraid of losing a job, and the percentage is even higher in the social enterprises that are approaching the privatization process. More than a third of the employees strongly believe that their expertise/knowledge is not anymore enough, i.e. updated.

Therefore, it is not unusual, and completely legitimate, that the new social program – this a bit unlucky chosen and obsolete system – is in the focus of the union requirements. Decisions that were stated in the current Social program of the Government, adopted in March this year, in the time of the frozen social dialogue, could be definitely improved. For example, relaying on the redundant packages as the main instrument for social care of the labor surplus, with too simplified and arbitrary chosen method of the remuneration calculation related to number of years in the service, solution that was justifiable criticized not just by the unions but even by the expert from the international financial organizations.

Example of the redundant packages makes the benefits of the “offensive” approach to the social dialogue more visible. If we would chose the development strategy that is based on the modern technologies, knowledge and skills, i.e. productivity growth, and not on the cheap labor force, then, even the union motive would be changed, i.e. would rather fight for better employment opportunities than for higher (still for long lasting life security not enough) redundant packages.

Social agreement that is now needed in Serbia should promote and protect the productive employment, and not the individual job placements. Unions should pass on the message to their members. Government and employers, should, however, overtake part of the costs and responsibilities. Key macro social indicators, such as the unemployment rate, ratio of the employed comparing to the labor force, minimum wage, average net salary and etc. should be improved continuously according to the previously agreed dynamics.

Social dialogue should be concluded for the period of three to five years. It is important not to coincide with the elections cycle, since the key benefit of it would be the stabilization role, that is of big importance for the periods of the political disturbances that are probably ahead of us.

# RECOMMENDATIONS FOR THE PROMOTION OF THE SOCIAL DIALOGUE IN SERBIA – OBSTACLES (PROBLEMS) AND POSSIBLE SOLUTIONS

## **Problem 1: Domination of the Public and Social ownership**

In Serbia, the public and social sectors still represent the biggest employer with at least two thirds of the employed. This prevents the clear promotion of the employer and worker's interests and of their representatives.

**Recommendation:** Process of the massive privatization should be finalized following the initial plan, i.e. latest by the year 2006, on the legal and transparent way.

## **Problem 2: Legitimacy of the social dialogue actors**

None of the current actors of the social dialogue on the macro level has the non-questionable legitimacy: it is unclear if the Government (end of 2002) has the stable parliamentary support; the employer's association certainly does not represent the employers that employ the majority of the total number of employed (and-or union members); none of the three union centrals is officially acknowledged as the representative one, and for one of those three (ASNS) representatives would hardly be provable.

**Recommendation:** There is a need to enable the work of the Parliament and to provide the non ambiguous trust of the parliamentary majority to the current Government or otherwise new elections should be scheduled; determine the exact representative criteria of the employers organizations and eventually determine the specific terms under which the employers interests could be represented in the transition period (e.g. until the finalization of the massive privatization by 2006); and finalize the process of determining the representation of the unions in the national and lower levels.

## **Problem 3: Non-existence of the mutual confidence among the actors of the social dialogue**

**Recommendation:** mutual confidence in the long term can only be built if there is an agreement of respect and the fulfillment of assumed liabilities.

## **Problem 4: Non-existence of the commonly accepted "rules of game" in the industrial relations**

Social dialogue actors have a different approach towards the issue what should be the subject of the negotiation and harmonization in the social dialogue and in the collective agreements; typically, Government and employers representatives prefer the minimalist approach, whereas the union representatives try to include wide specter of questions.

**Recommendation:** In this sensitive transition phase it is always better to accept the wider negotiation scope in the social dialogue and within the key forum discuss the wide variety of social issues and issues concerning the industrial relations, including the changes in the pension legislation, then the determination of the

minimum wage, redundant packages during the process of the economy restructuring.

**Problem 5: Non-existence of the social agreement on the sequence of the reform steps and cost – benefit distribution during the transition period**

First four mentioned problems lead to a stagnation of the interest harmonization process among the social partners, with the simultaneous increase in the social tensions and dissatisfaction. Social agreement represents one of the key elements for the successful continuation of the transition process.

**Recommendation:** Social agreement should be concluded for the longer period of time (three to five years) and should include following elements:

- Harmonized the order among the still needed reform steps that is in the interest of the social dialogue actors;
- Government should continuously promote, within the framework of the economic sustainability, certain key joint harmonized macro social indicators (e.g. minimum and average wage, minimum and average pension, unemployment rate, unemployment benefits, etc),
- Government and employers should include unions and employees in the negotiation process with respect to any issue regarding the restructuring process and the privatization of the enterprise,
- Unions and employees should positively accept the need for the enterprise restructuring and should maintain the social piece during the negotiation process.

# **A COMPARATIVE STUDY: SOCIAL DIALOGUE IN SOUTHEAST EUROPEAN COUNTRIES – POSSIBILITIES, LIMITATIONS, PERSPECTIVES**

## **Introduction**

Southeast European countries are facing today one of the biggest challenges in their history. For almost a decade and a half they have been experiencing an extremely complex and contradictory social process, more precisely a whole range of interrelated processes, which scientists, analysts and politicians term with a common denominator – transition.

This general term, whose semantics indicates a movement, development, or evolution from one form, stage, or style to another, in other words – change, implies the substantial change of these societies, dismantling of the old and emergence of the new social structure – creation of new social values, new political and economic organization of society, new way of life.

Since the very beginning only the basic characteristics of the new social order have been known: private property, market economy, multiparty parliamentary democracy, civil society institutions, human freedoms and rights. That is important, but insufficient.

Social practice has definitely refuted unrealistically optimistic expectations of scientists and experts about the duration and social consequences of the transition process. It turned out to be a much longer, more complex and contradictory social process, with very painful consequences.

The issues referring to the ways to transition, contradictions and obstacles in its way, social cost of transition and how it could be covered are still open and

will remain permanently topical. The issue above them all is the issue of human and moral meaning of the transition process and socially bearable cost of this process, particularly for wage-earning social strata.

This socially acceptable cost of the transition process is the subject of very profound and radical social conflicts, which more or less shake all societies undergoing transition. The results of empirical research and the course of political and economic processes in the previous decade unquestionably confirm that citizens and employees are aware of the necessity of changes, of the fact that changes are already happening every day and are willing to accept changes.

Due to the aforementioned reasons, all societies in Southeastern Europe are dominantly conflicting. To tell the truth, these conflicts are manifested with different intensity and in different ways from one country to another, as the result of specifics in the historical heritage and the past course of transition. However, high degree of confliction is the dominant feature of these societies. This additionally hampers the already hard economic and social situation in these societies, because conflicts, particularly of such great intensity, actually hamper reform processes, make them costlier in the economic sense and hang as Damoclean sword above all Southeast European countries, facing them with numerous social and political risks, threatening that social conflicts exceed the critical line and turn into something much more dangerous.

In other words, one may say that the countries of Southeastern Europe are at the crossroads between industrial, i.e. social conflicts and social peace, which is built and exercised through the mechanism of social dialogue. The experience so far unquestionably confirms that the best results in the transition process have been achieved by the countries which managed to reach minimum national social consensus about the ways and social cost of transition and on this basis have developed the mechanisms of social dialogue and social peace. This means that the countries of this region have to focus on the development and functioning of the mechanisms of social dialogue and social peace as one of the vital issues of their future.

Whether to choose conflict or social dialogue is no dilemma in fact. The right question would be how to go from conflict to dialogue, i.e. how to make dialogue dominant in relation to conflict in the long run.

Under the pressure of mounting social contradictions and the need for their permanent and systematic solution, Southeast European countries started to make the first steps toward the establishment and development of the mechanisms of social dialogue. In doing this, they had in view many decades of experience of developed, democratic free-market countries which have tradition in social dialogue, positive attitude of all social partners and have proven that social dialogue is one of the cornerstones of democratic social order and efficient mechanism for harmonization of positions and contradictory interests of social actors.

However, as in other similar situations, it turned out that experiences of developed, democratic countries, above all the EU, which have established a very developed and efficient model of social dialogue, are necessary as one of the initial



elements, but they are not sufficient. First of all, uncritical, mechanical copying is not possible, or more precisely – it is not reasonable. Certain mechanisms can be very efficient in certain social circumstances, but in other circumstances, in different social environment, their effect can be very limited, i.e. they can be an empty form without actual meaning for which social dialogue has been established. This is now unquestionably confirmed by the first experiences of transition where models and the course of introduction of social dialogue have their specific characteristics in each of these countries.

Therefore, what we are talking about is social environment which renders possible the establishment and functioning of social dialogue in its essential meaning. Namely, historical experience of both industrialized democratic European countries and transition countries, including Southeastern Europe, has clearly confirmed that the establishment and real functioning of social dialogue is possible only at the certain level of political, economic and social development of society.

Many of these conditions (degree of technological and economic development, standard, functioning of institutions of multiparty parliamentary democracy, civil society institutions, human rights) are not yet in place in countries of Southeastern Europe and that is one of the biggest obstacles for the establishment and development of social dialogue.

In fact, establishment of the new social environment, i.e. fundamental characteristics of new society, is the subject of social dialogue and current social conflicts. This process has another important aspect – social partners through current conflicts and dialogue, besides reconciling current different interests, fight for securing as good starting position as possible in the time to come. Namely, social dialogue, besides other things, is based on relative balance of social power between social partners. However, that social power is never ideally distributed and even a small advantage of one of the social partners gives him the possibility to play a dominant role in social dialogue. Experience to date has confirmed that objectively the weakest partner in these relations are trade unions, while government is the most powerful one. That fact makes the government – political power – the most responsible, particularly in the first stage of the establishment of institutions and mechanisms of social dialogue. It is the so-called objective responsibility, because the government holds in its hands all the levers of authority by which it is possible to dominantly influence, in the positive or negative direction, the establishment of social dialogue.

The human and historical meaning of social dialogue is particularly apparent and expressed in specific way in Southeast European countries. This is the consequence of the course of this process in both the EU countries and the countries of Southeastern Europe. Namely, the process of construction of democratic political institutions, workers' participation and social dialogue in the EU countries lasted much longer and followed, one may conditionally say, its natural course, although it does not necessarily mean that this process was without contradictions and conflicts. Clearly, it is unrealistic to expect that this process proceeds at the same pace,

through the same forms and to last equally long in Southeast European countries. After all, history has on innumerable occasions refuted the possibility of such copying of social processes and relations. What is noticeable is that this process takes place in generally unfavorable social environment and that it is very dynamic, although it does not appear as such at first glance. In other words, the intensity of processes leading to the establishment of social dialogue mechanisms is exceptionally strong and that by itself breeds new risks and challenges. In the process of establishment and development of social dialogue one may even notice an apparent pattern – that passage of time is also a necessary factor for the establishment of new institutions and relations, including unquestionably social dialogue. Human factor, motivation, effort to build new institutions and make them actually function may contribute to the dynamics of that process, but that contribution has its major limitations.

The establishment and development of social dialogue mechanisms in Southeast European countries is a process under way. For the time being that process is carried out at the national level. That is of indisputable strategic importance, but is insufficient. Very intensive integrating processes unfolding now within the EU and Europe as a whole, as well as ongoing political, economic and other processes in Southeast Europe, face social dialogue with new challenges. Although the processes of economic, technological and political cooperation between Southeast European countries is developing very slowly due to a range of limiting factors and negative legacy of the past, that cooperation will inevitably, by the force of economic and technological laws, proceed increasingly faster and with greater intensity. This faces trade unions and other social partners with new questions and challenges relating to the strategy of regional development, position of the world of labor and realistic consequences of integrating processes on the changes in the structure and manner of the functioning of the labor market. EU countries and their trade unions have already traveled a long stretch of road in these processes, which Southeast European countries can use as one of their guideposts. One of these experiences unquestionably confirms that the road to European and international integrations leads via regional cooperation. That process will largely determine the contents of social dialogue at the national and regional level. But social theory and practice are already facing the question whether and in what extent can social dialogue mechanisms influence the shaping of these processes in the region. This comparative analysis is a part of efforts in that direction.

## **Theoretical and Methodological Framework of the Project**

The subject of this project is the concept and practice of the establishment and development of social dialogue in the countries encompassed by the Stability Pact. Theoretical and practical knowledge so far confirm that it is an exceptionally complex issue, which encompasses a whole range of different aspects and which is

connected and interrelated with practically all key areas of life of society. Indisputable and readily apparent is interaction between social dialogue and political system and life of society, economic policy and economic system, living standard, i.e. quality of life of the population. In other words, social dialogue can only theoretically be separated from the complex of political and economic processes in society, with the aim of systematic, comprehensive study of this phenomenon.

Due to all the aforementioned, the initial position in the definition of the notion of social dialogue must be dynamic, developmental, rather than static. This means that social dialogue is not a static system, mechanism, it is not a condition, but a social process. Only embarking upon social dialogue as a social process makes it possible to grasp its historical and developmental character, dynamic motive factors of that process in the present social events, as well as interaction with other social processes.

If social dialogue is defined as historical and developmental social process, then one should add to this an essentially new characteristic of this social process. Social dialogue represents a radically new stage in the development of the political organization of society, an important historical step in the process which started with bourgeois revolutions, first in France and then in other countries of Europe and the world, bringing free citizen to the center of political and social events, which changes the major characteristics of political life, introduces new actors and changes relations of social power between them.

This general characteristic should be supplemented with a narrower, more specific one – that social dialogue is a specific social process, emerging at a certain level of political and economic development of society, in which political and economic democracy through various mechanisms organically link into a new whole, while employees' participation in decision-making process turns into universal value. Social dialogue in this context represents the answer to the growing role and influence of the government in the economic life of society, or creative response to the risk of the emergence of new Leviathan.

If social dialogue is defined, on a broader theoretical plan, as a social, historical process, in which essentially new elements of democratic order and political life of society are created, then social dialogue in the narrower, operational sense may be defined as a system of mechanisms and relations established by relevant social partners in the aim of their organized, systematic participation and influence on political processes and relations in society, i.e. definition and carrying out of the strategy of socio-economic and political development of society, harmonization of their different interests and peaceful solution of possible industrial and social conflicts.

However, the mentioned position is only a starting point for the operational definition of social dialogue, because operational definition in empirical and theoretical study of a phenomenon may fulfill its purpose only if it is sufficiently concrete and precise. In this sense, in order to arrive at sufficiently concrete and precise operational definition of social dialogue we will use the analytical method

of separation of certain elements of this operational definition, i.e. observation and study of certain elements of the structure of social dialogue.

The following elements of the social dialogue structure are important for its operational definition:

- International standards defined in the documents of the UN, ILO and other international organizations and international legal norms;
- Legal basis of social dialogue defined in national constitutions and laws, as well as in autonomous legal-political regulations of social partners;
- Mechanisms through which social dialogue is carried out – organs engaging in social dialogue, manner of their election, internal organization, working bodies, participation of experts, sources and manner of financing, manner of decision-making, execution of positions and decisions, etc.;
- Contents of social dialogue – issues discussed by organs and bodies within which social dialogue is carried out, possibilities for classification of these issues;
- Actors of social dialogue (social partners) – government, trade unions, employers and other actors who participate in social dialogue;
- Criteria for the evaluation of objective reach of social dialogue and social power of the organs within which social dialogue is carried out;
- Social dialogue and other areas of social life bordering with social dialogue;
- Social environment in which social dialogue takes place.

Only at first glance it appears that there are no large differences in the definition of the notion of social dialogue on wider theoretical and operational plan. However, apparent similarities are often only an optical illusion. A more profound theoretical effort shows that a range of considerably different definitions of social dialogue appears in theory and practical life. It is certain that one of the major sources of these differences can be found in general theoretical and ideological preferences of the author. These differences are particularly apparent in the evaluation of real social power of social dialogue, i.e. of the role it can play in social relations as a whole. At the same time, these differences have their basis primarily in real life of different societies. It is clear that social dialogue does not have the same contents in developed and economically underdeveloped societies, in societies with very different degree of development of democratic institutions. Key actors of social dialogue are formally the same in all countries: government, trade unions and employers, i.e. their relevant organizations. However, it is clear that the position of the employers' organizations or trade unions in e.g. Albania or Poland or Italy is not the same, that the position and role of the state in social dialogue in different countries of Southeastern Europe is not the same. In addition, certain countries introduced a wider circle of social actors in social dialogue mechanisms, besides the government, employers and trade unions, so that one can no longer speak of tripartite but rather of multipartite structure of social dialogue.

Finally, differences in the definition of the notion of social dialogue arise from different practical experiences – numerous dilemmas and open issues in the

definition of the notion of social dialogue are the consequence of the fact that social dialogue in Southeast European countries is only making its first steps.

There are a large number of doubts and open issues in theoretical models of social dialogue. In order to achieve the goals of this project, the following issues deserve to be separately analyzed.

The first of the theoretical controversies refers to the scope of social dialogue, i.e. what elements are considered to belong to social dialogue. Some authors imply under social dialogue only tripartite bodies (government, employers, trade unions) which are usually called social and economic councils, at the national, regional and local level. They strictly distinguish social dialogue and its mechanisms from the mechanisms of industrial democracy, which also include collective bargaining. The second group of authors treat collective bargaining, particularly at the branch and national level, as one of the forms of social dialogue. This second opinion has its historical material foundation in the course of development of collective bargaining and social dialogue. Finally, it is hard to imagine successful and efficient functioning of social dialogue in contemporary society without a developed collective bargaining mechanism. This is supported by the continuous expansion of the subject of collective bargaining to issues which are strategically-political by their nature.

The next group of theoretical dissension refers to the role of state in social dialogue. This issue – the role of state – is present in other areas of social life as well. It has an even greater specific weight in transition countries due to exceptional concentration of power and the dominant role and influence of the state in the first phase of transition. In this case too there are two extremes. One of them totally negates the role of state as a social partner in social dialogue, stressing that it is in contradiction with the principal role and functions of the government in social processes. The other group of authors overemphasize the role of state in social dialogue and/or fail to notice *diferentia specifica* of the government in social dialogue in relation to other social partners. Such views have their root in the contradictory position of the state in social dialogue. Namely, the government enters social dialogue having in its hands all levers of power. Development of social dialogue in fact deprives the government of some of its powers, transferring them to social dialogue mechanisms, and hence changing their nature.

The next issue over which theoretical and practical differences are showing refers to delimitation between individual and joint functions of social partners in social dialogue. Namely, every social partner engages in social dialogue out of his own specific reasons, with the main aim of protecting his own interests through social dialogue. It follows that every social partner, that is their representatives in the bodies where social dialogue takes place, play their own individual role and functions. It is clear that the role of the employer in social dialogue, for example, considerably differs from the role of the trade union and government. At the same time, all participants in social dialogue, which is in its essence an interactive

process, carry out also some common functions, which are the necessary condition for the successful functioning of social dialogue. As the result, social theory and practice are faced with the issue of distinguishing between individual and common functions which social partners exercise through the mechanisms and process of social dialogue. That relationship is important, because it enables the researcher to identify disintegrating and integrating, conflicting and peaceful aspects of social dialogue.

A major theoretical as well as practical issue is the definition of the criteria for the evaluation of efficiency and success of social dialogue. First of all, efficiency and success of social dialogue have their numerous and varied aspects – legal, political, economic, human. What criteria are the most relevant and most reliable? Are these criteria measurable and to what extent? Formal existence of social dialogue does not automatically mean that it functions successfully and efficiently. On the contrary, very often it is only an empty form. A valid answer to this question requires that social and human essence of social dialogue – democratization of society and humanization of human life – be taken as a starting point. After all, that is a search for the answer whether there is a connection between the establishment and development of the mechanisms of social dialogue and quality of life of ordinary people, and how is this connection manifested.

Finally, in theoretical deliberations it is necessary to develop a heuristic aspect of the theory of social question. It can be set through the question about perspectives, about the future of social dialogue. More precisely, the question of the mutual relationship between the social dialogue mechanisms and political organization of society is becoming increasingly topical. This question may also be phrased in the following way: can social dialogue, as substantially new form of relations, replace certain standard models of political organization and life of society?

## **Legal Framework for the Establishment and Development of Social Dialogue**

It is well-known that within the transition process the countries of Southeastern Europe undertook the reform of their legal systems in the aim of harmonizing them with European and international standards, as well as to encourage economic and democratic political development and integrate their respective countries into Europe and the world. On this occasion, we will restrict ourselves only to the elements of the legal systems which are vital for the establishment and development of social dialogue.

Fundamentally important in this regard is the fact that all these countries are members of the UN, which means that they are bound by strategic documents of this organization about civil, human and trade union freedoms and rights. Particularly important for the subject of our research are Covenant on Civil and

Political Rights and Covenant on Economic and Social Rights which, among other things, protect the freedom of organization and work of employees' and employers' organizations, which is one of the preconditions for the establishment of social dialogue.

The next important step toward the establishment of the legal framework for social dialogue is to be found in the fact that all observed countries are ILO members, and that they have ratified Conventions 87 and 98 of this organizations, which regulate the freedom of organization and action of workers' and employers' organizations, the freedom of collective bargaining (Convention 87) and oblige political authorities to conduct that in no way restricts the freedom of employees' and employers' organizations.

In addition, most countries in the region have adopted ILO Convention 144 about workers' right to consultations, and Convention 154 on the right to collective bargaining, as well as a document of the European Union – European Social Charter.

There are three legal grounds for the regulation of social dialogue. These include (a) legal regulation of the founding, content and method of operation of social and economic councils, (b) agreements on founding – autonomous legal and political regulation of social partners and (c) Government decision, i.e. bylaw. All three models are present in the observed Southeast European countries, as shown by the data in Table 2.

Table 2: Legal basis for the founding of bodies in which social dialogue is conducted

No	Country	Legal basis for the founding of Social and Economic Council				Year-founded
		Agreement of social partners	Law	Government ruling	Something else	
1.	Albania		x			
2.	Bosnia and Herzegovina	x				2002.
3.	Bulgaria	x				1990.
4.	Croatia	x				2001.
5.	Kosovo				x	2001.
6.	Macedonia	x				1996.
7.	Montenegro				x	2001.
8.	Republika Srpska	x				2002.
9.	Romania		x			1997.
10.	Serbia	x				2001.

The choice of one of the studied alternatives is determined by the concrete social and economic conditions prevalent in the country at the time when the social and economic council was founded. The experience of Bulgaria presented in this section, as well as the experiences of other countries confirm that the founding of social and economic councils, in addition to strategic, long-term need, has always been the response and reaction to the concrete situation and relations between social partners.

On the other hand, this has to do with different concepts and different views of the role of social partners.

Both approaches have their pros and cons. It is certain that founding of social and economic councils by the agreement of social partners, i.e. according to autonomous, political legal regulations, adopted by the agreement of partners, reflects to greater extent the authentic principles of social dialogue – voluntariness, autonomy of will and confidence between social partners.

On the other hand, the force of law, if well proportioned and targeted, can successfully protect the fundamental principles of social dialogue, which is exceptionally important in the initial stage.

The solution of both dilemmas can be found in comprehensive approach to the study of autonomous regulations of social partners and legislative regulation as parts of an integral whole of labor legislation. The justification of such conclusion is borne out by the legal regulation of the elements of the collective bargaining system.

The process of putting the legal framework for social dialogue in place is under way in all the observed countries, confirming the opinion of actors of this process that legal framework is the necessary condition for the establishment of social dialogue.

This process proceeds with varying intensity from one country to another, as the result of specific circumstances, i.e. social environment in which this legal framework is being created. In this context, it is necessary to have in view that legal framework for social dialogue is only a segment of the national legal system and that it cannot develop outside that legal system. In other words, in no country can legal protection of social dialogue institutions be efficient, without having at the same time legally protected human freedoms and rights, legal equality of citizens, etc. The intensity of activities toward the establishment of the legal framework for social dialogue depends on the opinion of the actors about the importance of the legal framework for the establishment and development of social dialogue. By the nature of their position, trade unions are mostly insistent on this, but minimum agreement between social partners about the pace of this work is often missing.

This claim is confirmed by the differences in the degree of development, i.e. scope of the legal framework of social dialogue. First of all, one can notice that legal framework of the system of social dialogue in most countries is diffuse, consisting of a number of segments of legal regulation. Due to this reason, certain na-



tional reports justly emphasize the need for modification of this segment as well as of the entire labor legislation.

Different degree of legal regulation of social dialogue (the scope and character of issues in this area which should be regulated by legal provisions) shows, above all, the need of the weakest partner in social dialogue – trade union – to protect by legal provisions the basic principles of social dialogue and its own position in this process. However, it is obviously necessary to undertake a more profound analysis and assess the optimum ratio between legal norms and autonomous legal political regulation of social partners, that is to seek answer to the question where is the borderline at which legal norms protect without jeopardizing the autonomy of social dialogue.

## **Levels of Social Dialogue**

Southeast European countries which are the subject of this report have actually embarked on the development of the same democratic values as industrialized countries in Europe and the world. To tell the truth, that process proceeds with varying intensity from one country to another and with different degree of success. The first step in this direction is certainly the development of a network of democratic institutions. In this regard, within the comprehensive changes in the political system, countries of Southeastern Europe have faced the need to establish and develop social dialogue at different levels of social and economic organization and life.

The course and results of this process in Southeast European countries, among other things, are determined by the degree of decentralization of the political system. This arises from the fact that the role and functions of social and economic councils at different levels depend on the powers that organs of the local self-government have, i.e. what issues are in their decision-making competence. Of course, if political system is more centralized, i.e. if all decision-making power is concentrated in the central bodies of political authority, such countries have less scope for the real social dialogue at the local level. On the other hand, to the extent that political system is decentralized, it becomes more and more necessary to establish and develop social dialogue mechanisms at the local level. In other words, with the decentralization of the process of political decision-making through transfer of the decision-making right about certain issues to the organs of local communities, the potential contents of social dialogue is expanding. This process is unfolding in various ways and forms in all Southeast European countries. This process has two main motive forces. First, the experience of all democratic countries unquestionably bears out that democratization of society and of political decision-making process is not possible without the development of local self-government. Secondly, regional development, autonomy of regions and independence of local communities fall among the indisputable democratic standards that must be ful-

filled as a precondition for the accession and integration of Southeast European countries into the European Union.

Since these two processes (development of local self-government and social dialogue mechanisms) proceed simultaneously, and since social dialogue, wherever it was introduced, proved to be a reliable democratic instrument, establishment and development of social dialogue may obviously act as an incentive for the development of local self-government and for the new democratic concept of local communities in Southeast European countries.

The starting point for the analysis of the degree of development of social dialogue at different levels of political and administrative organization of society is the definition of social dialogue which gives an answer to the question what elements can be considered to belong to social dialogue.

Namely, in most national reports collective bargaining is treated as a form of social dialogue. Accordingly, the collective bargaining system and collective agreements are presented in these reports in separate chapters, with these chapters usually being the most voluminous part of the national report on the state of social dialogue. This confirms at least two things. First, that exceptional importance in all Southeast European countries is devoted to the development of collective bargaining. Secondly, that collective bargaining is very often the most developed compared with other forms of social dialogue.

However, when social and economic councils as tripartite bodies are taken as the only subject of analysis, the situation is far less favorable. In all observed countries social and economic councils have been set up at the national level. This is a logical first step, because social and economic councils at the national level are considered the cornerstones for the development of the entire system of social dialogue and for the establishment of social and economic councils at other levels.

Most of the observed countries have not yet progressed any further beyond that first step. This comes as no surprise, because the vast majority of the social and economic councils at the national level have been founded in the past two years, meaning that objectively there was not enough time to establish social and economic councils at the local level. Moreover so since all these countries are burdened with numerous contradictions and problems which slow down the establishment of social dialogue mechanism. Likewise, in many cases two actors of social dialogue – employers and trade unions – do not have sufficiently developed local organizational, technical and personnel structure necessary for the establishment and functioning of social dialogue at the local level. The same limitation, only in a little lesser degree, refers also to the government. In other words, the establishment and development of the social dialogue mechanisms at the regional and local level actually require enormous human and material resources and shortage of these resources is one of the main reasons why this process proceeds very slowly.

Observing in general the levels at which social dialogue is established in Southeast European countries, one can notice a logical sequence. Namely, it is logical that mechanisms of social dialogue have been first established at the level where

the greatest social power – the key controls of authority and decision-making – are concentrated.

This can be used as an advantage, as a firm foothold in the process of establishing the social dialogue mechanisms at other levels. It is indisputable, and the experience of these countries already confirms, that social and economic councils at the national level can play an important role in encouraging and coordinating the development of social dialogue at the local level. However, care should be taken to avoid centralization of social dialogue, i.e. to avoid that social and economic councils at the national level become an umbrella over social and economic councils at the local level.

The development of social dialogue at the local level, as it has been demonstrated, depends on the development of the subject of their work, that is on the degree of real power and authorities of the government institutions at the local level. This implies that the very development of social dialogue mechanism must be treated as a part of the strategy of the development of local communities. That is also the condition ensuring that the network of institutions of social dialogue at different levels is established in systematic fashion, that will make possible for creative potential to be manifested in different areas of life and levels of political organization of society and that free citizens create the conditions of their life.

## **Participants in the Social Dialogue**

The nature of social dialogue actually determines its participants. They include the government, employers (employers' organizations) and trade unions, which are the main actors of industrial relations as a whole.

This seems so pure and simple, but only at first glance. It is in the area of definition of participants in social dialogue that we encounter many disagreements, conflicts, doubts... That is one of the pronounced problems and major obstacles in the process of establishment and development of the social dialogue mechanisms, since clear definition of the participants is the first step and condition for the establishment of social dialogue. This follows from the fact that development and objective reach of this process largely depends on its participants and the constellation of power between them.

Participants in social dialogue are in contradictory position. They share minimum common interests for which they enter social dialogue. These common interests are also the groundwork of the principles underlying social dialogue – voluntariness, autonomy of will and good faith, i.e. mutual confidence between the participants. At the same time, actors of social dialogue have their particular interest, often opposing and representing the source of conflict between them. Of course, each of the actors is attempting to launch and achieve his interests to the maximum extent. In this regard, each of the participants has the interest to exert as much influence as possible on other participants, and even on the choice of participants in social dialogue.

The starting point for a clear and comprehensive definition of the legal and legitimate actors in social dialogue is the constitutional legal and actual protection of the freedom of organization and action of workers' and employers' organizations. It is obvious that where this freedom is not formally legally and actually protected, there can be no partnership nor social dialogue. In this regard it can be stated that in all observed countries of Southeastern Europe this formal legal condition is fulfilled, since all of them have ratified ILO Conventions 87 and 98 and incorporated provisions about freedom of organization and action of the employers' and trade union organizations in their constitutions and laws. Nevertheless, violation of these rights, particularly of trade union rights, is present in the practice of all these countries to a greater or lesser extent. This automatically places trade unions, as participants in social dialogue, in inferior position in relation to the other two participants in this process. Of course, any action that threatens or restricts the freedom of organization and action of the workers' and employers' organizations in most direct way threatens the establishment of social dialogue, introducing the element of mistrust into their mutual relations. Having noticed this, all the analyzed countries have stipulated that social and economic councils, among other things, should review the cases of violation of the freedom of organization and undertake measures within their competence or propose relevant measures to government bodies and social partners.

According to the views presented in national reports, **the state** is a specific participant in social dialogue. In the establishment and development of this important segment of democratic social order it plays a double role. On the one hand, the state creates constitutional and legal basis and the entire social environment for the establishment and development of social dialogue.

At the same time, the state i.e. its representative – the government, together with the other two actors – employers and employees – participates as an equal partner in the discussion of issues that fall in the scope of work of the social and economic council.

The state is objectively the most powerful actor in social dialogue, because it holds all the controls of political power. The contradiction of its position and role in social dialogue is actually reflected in the fact that through development of social dialogue and other democratic mechanisms it should transfer some of its powers to civil society. In this respect, the state has the power to influence the process of the establishment and development of social dialogue in the positive or negative way and commensurately with its formal power it bears a share of responsibility for the state of social dialogue.

Positions presented in national reports also give rise to the conclusion that state is objectively the most influential actor of social dialogue.

In the initial phases, particularly if the other two actors – trade unions and employers – are very weak, this can turn into an advantage, of course, provided the government demonstrates real political will to establish and develop social dia-

logue. But if such situation remains permanently, it would be disastrous for the essence of social dialogue.

As for the participation of trade unions in social dialogue, differences are visible primarily in the number of trade unions participating in this process, i.e. whether one or more trade unions are involved in social dialogue. This is shown by data in Table 3.

Table 3: Number of trade unions participating in social dialogue at the national level

No.	Country	Number of trade unions participating in social dialogue
1.	Albania	4
2.	Bosnia and Herzegovina	1
3.	Bulgaria	2
4.	Croatia	5
5.	Kosovo	1
6.	Macedonia	2
7.	Montenegro	1
8.	Republika Srpska	1
9.	Romania	5
10.	Serbia	3

In half of the observed countries there is only one trade union participating in social dialogue, while Romania and Croatia have the highest number of trade unions involved – 5 each.

Of course, the number of trade unions participating in social dialogue depends on the specific course of development of trade union movement and in this context – trade union pluralism in certain countries. It is also necessary to have in view that the number of trade unions in all the analyzed countries is higher, but only the number of trade unions mentioned above participate in social dialogue. Therefore, the situation in this regard may change in the future.

All the countries where more than one trade union participates in social dialogue apply the principle of representativeness of trade unions which is, as a rule, defined by law. However, this process is not completed in all the countries of the region. For example, the Labor Law of the Republic of Serbia introduced the

principle of representativeness of trade unions and set forth the conditions which a trade union must fulfill at a certain level to be considered representative. However, the actual process of determining the representativeness of trade unions has not been completed yet. This process takes place sporadically in certain enterprises and branches, at the initiative of the trade union, but not at the national level.

The next problem faced by trade unions as actors of social dialogue refers to division, fragmentation of the trade union scene, cleavages and conflicts. This can be jointly termed as unnecessary and unfair competition between trade unions. Of course, this weakens the overall position of the trade union in social dialogue and generally produces adverse effect on the establishment and development of social dialogue.

When the employers' organizations as actors of social dialogue are concerned, the situation is even more complex than in case of trade unions. Apparent here is the crossroads between the old and the new. This is reflected in the fact that in some countries chambers of commerce and industry appear as participants in the social dialogue. This is the legacy of the socialist, single-party system, since these organizations cannot be treated as employers' organizations based on voluntary membership. Data in Table 4 illustrate this and other relevant indicators about this issue.

In four of the ten observed countries, chambers of commerce and industry participate in the social dialogue on behalf of the employers, which represents one of the elements of the legacy from the former period.

Table 4: Type and number of participants in social dialogue on the part of employers

No	Country	Participating organization	Number of participants
1.	Albania	Employers' organization	2
2.	Bosnia and Herzegovina	Employers' organization	1
3.	Bulgaria	Employers' organization	4
4.	Croatia	Employers' organization	1
5.	Kosovo	Chamber of commerce	1
6.	Macedonia	Chamber of commerce	1
7.	Motnenegro	Chamber of commerce	1
8.	Republika Srpska	Chamber of commerce	1
9.	Romania	Employers' organization	8
10.	Serbia	Employers' organization	1

Interrelationship, i.e. influence of social environment on such a situation is shown by the fact that these are the countries where the transition process proceeds at the slowest pace. The same refers to privatization, as one of the key elements of that process. It is true that the contents and method of their work changed to some extent under the impact of the entire course of changes. However, chambers of commerce and industry obviously cannot be the authentic employers' representatives in market economy. These countries are yet to face the challenge of establishment of autonomous employers' organizations, which is of crucial importance for social dialogue.

The results of the comparative analysis in this segment point out that the process of constitution of the actors of social dialogue is still under way. This primarily refers to trade unions and employers' organizations and involves the settlement of relations on both the trade union and employers' scene. It is obvious that each of the two actors of the social dialogue is often confronted within its own group, that trade unions and employers' organizations greatly differ by the size, organizational structure, logistic facilities.

Adequate changes in this area must focus on clear definition and strengthening of the social power of each of these actors, because relative balance of power between them is a prerequisite for the functioning of social dialogue.

## **Organizational Structure of the Social Dialogue**

The establishment and development of social dialogue in Southeast European countries, besides the political and social, has its organizational aspect. In other words, organs and bodies within which social dialogue takes place may be regarded as an organizational system. As in any other social and political activity, the success of social dialogue depends on organizational structure.

Organizational structure should enable the exercising of the main functions of social dialogue, reconciliation of different interests of social partners, prevention of industrial and social conflicts, and if they nevertheless break out – their peaceful resolution, as well as permanent, systematic influence of unionized labor and civil society institutions on the creation of the strategy of social, economic and political development of society.

Organizational model should also be based on the fundamental principles of social dialogue – voluntariness, autonomous will of the parties and mutual confidence.

Likewise, the organizational structure directly and openly expresses the attitude of the key actors of social dialogue toward this important social process. Of course, organizational structure is more developed in the countries where more attention is devoted to the social dialogue and where social dialogue became an important element of the process of making important social decisions. This simply arises from the fact that the development of social dialogue imposes the need for

the introduction of the new and upgrading of the old organizational forms. Organizational structure of the social dialogue also reflects the constellation of power of its actors, because each of the actors attempts to impose the organizational concept which would enable him to have the greatest influence in the organs and bodies where social dialogue is conducted. In this regard, one may say that the very organization of these organs and bodies represents the subject of social dialogue between the social partners.

The basis for such claim is provided by the fact that organizational structure of the organs within which social dialogue is conducted is determined by the agreement of social partners and that it is in fact their first agreement, which represents a test of their actual readiness to earnestly establish and develop social dialogue. Also, the mentioned agreements set forth that the organizational structure and method of work of the social and economic councils may be changed pursuant to the agreement of all participants, whereby each of them individually may launch such an initiative. This approach is very important, because if they fail to agree upon the method of organization and work in their mutual relations within the social and economic councils, it cannot be realistically expected that the actors of social dialogue would agree upon the other issues on which they should build their common stands.

In addition to all the aforementioned, the organizational structure of the social and economic councils should ensure their efficient work, monitoring of the execution of their positions and decisions, as well as cost effectiveness in their work in the sense of expenditure of financial and material resources.

The situation is different in the countries where the establishment, scope of work, organization and method of work of the social and economic councils are regulated by law. In this regard, the founding of the social and economic councils by the agreement of social partners has certain advantages. In that case, all three social partners are in relatively equal position, because the organizational structure cannot be defined, nor the work of the council started without the agreement of all social partners. This is even more pronounced than in the subsequent process of decision-making at the sessions of the social and economic councils, where the decisions in most cases are made by majority vote.

In the situations when the founding, organization and method of work of the council are defined by the law, the state, as the legislator, enjoys considerable initial advantage. Of course, it is implied that the legislation governing the organization and work of the social and economic councils is enacted in a democratic way, with active participation and agreement of the other two social partners. This arises from the principle of voluntariness, meaning that no one can force anyone to participate in the social dialogue. Actually, they can, but then it is not social dialogue.

The number of members of the social and economic councils at the national level differs from one country to another and is determined by the specific features of the process of the establishment of social dialogue, number of represen-



tative participants in the social dialogue, as well as certain conceptual differences about the issue which organizations may equally participate in the work of social and economic councils. The number of members of the council also expresses the organizational approach of the actors of social dialogue to the provision of optimum number of members that would enable efficient work.

Of course, too high number of the council members can be counter-productive for the efficient operation, rapid convening and may increase the operating costs. However, reduction of the number of members of the council below certain limit for the sake of efficiency and savings can cause irreparable damage by exclusion of potentially relevant participants from the work of the council and put at risk the main goals of their existence.

Organizational structure in all the countries encompassed by this analysis includes certain number of representatives of employers, trade unions and political authorities. This solution reflects the principle of equality of social partners. However, this solution faces trade unions and employers' organizations with a new challenge in the countries where there are more trade unions and/or more employers' organizations participating in the work of the social and economic councils. Since the government has a fixed number of representatives in the social and economic council, which it does not share with anyone, its starting position is more favorable compared with the other two social partners.

This urges trade unions and employers' organizations to reach consensus about the minimum common interests and strategy in the work of the social and economic council, which is not possible if they do not have prior minimum agreement about their mutual relations and common strategy. First of all, agreement must be reached about the choice of council members from the trade union ranks. Absence of this minimum agreement and cooperation among trade unions and employers' organizations not only weakens their position in relation to the government, but represents the direct obstacle to the development of social dialogue. In other words, the principle whereby trade unions and employers provide equal number of members in the social and economic councils in the conditions of pluralism in the most direct way raise the question of the state and relations on the trade union i.e. employers' scene.

## **Content of Work of the Social and Economic Councils**

The definition of the content of work of the social and economic councils can be treated as the first step in the establishment of social dialogue and the first concrete test of the actors of social dialogue and their willingness to build their relations on the new principles. Namely, every participant in social dialogue, proceeding from his own position and interests, strives to include in the content of work of the social and economic council the issues that are most important to that partner, and to exclude from social dialogue certain important issues referring to the social

and economic development of society. In other words, the definition of the content of social dialogue would be the first subject of confrontation and conflict between the actors of social dialogue.

The analysis of the content of the social dialogue raises numerous theoretical and practical questions referring to the relationship between the social dialogue and workers' participation, collective bargaining and political decision-making. This follows from the fact that many issues which are the subject of social dialogue are at the same time the subject of different forms of workers' participation, such as works councils, collective bargaining and decision-making of the legislative and executive bodies of political authorities. Of course, this raises in a new way the issue of the relationship between social dialogue and various forms of industrial relations, such as collective bargaining and relationship between social dialogue and political decision-making.

The inspection of the content of work of the social and economic councils at the national level in the analyzed countries shows that these bodies deal with almost all relevant political, economic and social aspects of the transition process. Some of these issues (e.g. restructuring and development of the national economy) are so widely and generally defined that practically all political, economic and social issues of the transition process may fit into this definition. Of course, such broadly defined issues dealt with by the social and economic councils in any case reflect the doubt of those who defined the content of work of the social and economic councils, unavoidable at the first steps of their establishment and development.

It is also obvious from the national reports that a very large segment of the activity of the social and economic councils refers to their participation and influence on the enactment of legal regulations, primarily in the area of the economic and social policy and labor legislation. That is logical, since the legislation regulates the fundamental relations in these areas and in fact define the position of social partners. Without disputing the importance of this activity, it is necessary to highlight certain points which bring trade unions and employers into the less favorable and often marginal position in these processes.

First of all, bills are as a rule drafted by the government. This situation gives it a head start compared with the other two social partners. Secondly, trade unions and employers' organizations in Southeast European countries as a rule have poorly developed financial, technical and human potentials, which is a limiting factor for their participation in and influence on the legislative activity. In addition, there are other adverse circumstances, such as frequent pressures of the government to pass laws under the so-called "emergency procedure", manipulation with the requests of international financial institutions, etc. All this generates real risk that trade unions and employers' organizations may become marginalized in the legislative activity, with their role reduced to giving consent to certain legislative projects. This is indeed also the question of the strategy of trade unions and

employers' organizations and their real ability to successfully discharge their role and functions.

An important element of the contents of work of the social and economic councils is promotion of social dialogue, its main goals, values and encouragement of various social actors to participate in social dialogue.

In the same way, social and economic councils in certain countries have large powers in the area of collective bargaining, settlement of collective labor disputes, and determination of the composition of the conciliation and arbitration councils.

In any case, it is obvious that the social and economic councils engage in a wide range of political, economic and social issues and hence inevitably enter the sphere of political life and political decision-making. In addition, it is obvious from the national reports that there exists a tendency toward continuous expansion of issues addressed by the social and economic councils. This can be treated as a positive tendency, as an indicator that participants in social dialogue regard the social and economic council as a place where different interests can be successfully reconciled and positions about important political, economic and social problems developed. All this is favorable for the perspective of social dialogue.

## **Collective Bargaining**

The relationship between the social dialogue and collective bargaining is very often the subject of theoretical and professional debates. Considerable differences are manifested in theory and in social practice concerning bipartite and tripartite relations and whether collective bargaining can be treated as a form of social dialogue or not. History as a teacher of life can be of great help here. Historically, chronologically, collective bargaining is established first, at the enterprise level, and then at other levels. The first forms of social dialogue emerged decades later, after collective bargaining has passed a good part of its developmental path. The history of the development of collective bargaining and social dialogue gives rise to the conclusion that social dialogue could not develop without prior existence of collective bargaining. In this sense, one may say that collective bargaining and collective agreements are the foothold of social dialogue.

Collective bargaining is an autonomous process based on voluntariness of actors, and collective agreements in this regard are treated as a specific source of labor legislation. This raises the issues of relation between collective bargaining and legal framework in a specific way. The experiences of developed, democratic countries are in this regard very different. There are countries where the legal framework is almost nonexistent or very restricted, while collective bargaining is very developed and has largely assumed the functions of labor legislation. On the other hand, there are countries where the legal regulation of collective bargaining is very developed, concrete and detailed.

The specific course of the establishment and development of collective bargaining, i.e. generally unfavorable social circumstances in which the system of collective bargaining has been built and collective bargaining took place resulted in very important, sometimes overemphasized role of legislation.

Attempt of the government to exclude certain strategically important activities, financed from the budget, from collective bargaining, in other words to regulate labor rights of employees in these sectors by the law, is apparent from the analysis of the legal framework for collective bargaining. Thus, unionized workers in these sectors are directly deprived of one of the fundamental rights – the right to collective bargaining, while the meaning of unionization is disputed as well, because one of the key trade union functions – conclusion of collective agreements is denied to these trade unions. In doing this, the government is resorting to the tried and tested carrot-and-stick method, offering to the employees in these activities various benefits, trying to convince them that they are in privileged position in relation to the employees in other sectors and subjecting them at the same time to various forms of pressure.

The tendency toward creating a strong legal framework for the collective bargaining system is a logical consequence of underdevelopment of this system and small social power of trade unions. In the first phase this may be of great importance for the protection and creation of the conditions for the operation of the fundamental principles and mechanisms of collective bargaining. However, retaining the predominant function of legal norms backed by government compulsion in relation to autonomous system of collective bargaining breeds potential risk of retaining permanently in place, under the mask of formal legal equality, the realistically inequitable relations between social partners and the system of quasi-collective bargaining in which collective agreements serve as a mask for the issues already regulated by law.

Collective bargaining and collective agreements in Southeast European countries have been established or are in the process of being established at different levels of the economic, territorial and political organization of society. Compared with the developed democratic countries in Europe and the world where collective bargaining has many decades of tradition, the introduction of collective bargaining proceeded in different sequence. Namely, collective bargaining and collective agreements in industrialized market-economy countries have first been established at the enterprise level. Only after collective agreements at the enterprise level have reached certain level of development and power, they served as a basis for the establishment of the collective bargaining system at other levels. The present levels of collective bargaining, which constitute more or less complementary wholes, have been established as a result of a process that lasted for decades.

In the countries of Southeastern Europe, the establishment of different levels of collective bargaining proceeded from top downwards – from collective agreements at the national level to collective agreements at the enterprise level.

That process has largely had the characteristic of being imposed from above, without adequate foothold. In any case, that had limiting effect on this process.

The analysis of the contents shows that collective agreements, particularly at higher levels, encompass an exceptionally broad array of issues, with some of them having dominantly political character. Also, there is a tendency to expand the subject of collective agreements, i.e. to continuously include new issues into the collective bargaining process. The same tendency has been noticed about the content of work – issues within the scope of work of the social and economic councils at the national level. A comparative analysis shows that collective agreements at the national level and social and economic councils often cover identical issues. This in fact creates a new aspect of relations between the social dialogue and collective bargaining, that will be the subject of future analyses and research.

Very often the list of issues which are the subject of collective bargaining is similar to the list of problems faced by Southeast European countries in the course of transition.

An important issue and the subject of conflict in the collective bargaining process is the question of the validity of collective agreements, i.e. do collective agreements apply to all employees or only to the employers who are the members of the certain employers' organization. There are three basic models encountered in international practice:

- the collective agreement applies to all employees (so-called extended effect of collective agreements),
- the collective agreement applies only to the employers who are members of the employers' organizations that concluded the collective agreement,
- the collective agreement applies only to trade union members.

Having in view the generally unfavorable social circumstances in which collective bargaining takes place in Southeast European countries, as well as poorly developed collective bargaining system, it is logical that trade unions in these countries strive to ensure the application of collective agreements to all employees. In this way they implement the principle of workers' solidarity and motivate the employees to join the trade union which secured them certain benefits through the collective agreement.

The political authorities and the employers' organizations often take the opposite stand, stressing the neo-liberal view that collective agreements and their conclusion are solely the matter of the good will of the two parties – trade unions and employers. Thus they neglect, consciously or not, that collective bargaining is the accomplishment of the present-day civilization and the cornerstone of social peace. Such attitude places the generally weaker partner in the process of collective bargaining – trade union – in very unfavorable position.

## Settlement of Industrial Conflicts

The relationship between social dialogue and social and industrial conflicts could be symbolically and actually expressed in one sentence: social dialogue, i.e. social peace versus social and industrial conflicts. The entire process of the establishment and development of the social dialogue mechanisms could be regarded as prevention of industrial and social conflicts. Conflict and dialogue, two facets of the same industrial process, are profoundly interrelated and interconnected. This is, among other things, the consequence of the interrelationship and interaction between industrial and social conflicts. Namely, in every concrete industrial conflict, wider social causes can be detected in addition to the most direct ones. At the same time, broader social conflicts represent, among other things, the resultant of concrete, individual industrial conflicts.

It is certain that Southeast European countries will continue to be highly conflicting societies for a long time to come. This is caused by objective economic, political and social circumstances in which these societies develop. Due to this, endeavors of the social actors should focus on the elimination or mitigation of the causes and/or reduction of the intensity of social and industrial conflicts. The main aim and the measure of the success of this activity is prevention of industrial and social conflicts from reaching a critical point when stability is at stake along with the survival of the entire social order. This means that all three social partners – government, employers and trade unions – are faced with the new challenge: the need of crisis management, i.e. management of industrial and social conflicts. That challenge will be ever increasing in the forthcoming period. The specifics of that problem are reflected in the fact, confirmed by the experience of the EU and successful transition countries, that successful management of the social and industrial conflicts is possible if undertaken simultaneously and jointly by all three social partners.

It sounds contradictory, but in all the observed countries the manner of resolution of industrial and social conflicts is the subject of the social dialogue. This confirms the strength and essential meaning of the social dialogue. Agreement between the social partners about the way they will settle possible mutual conflicts is certainly the foundation for peaceful resolution of conflicts.

That need and conviction of social partners is expressed in the establishment of numerous institutions for the peaceful resolution of industrial and social conflicts. Institutions for the peaceful settlement of industrial conflicts are established in two main areas:

- in the collective bargaining process,
- as a separate form of organization and activity of the social and economic councils.

From the analysis of documents which regulate these issues it is possible to make a conditional division of labor in this area. Bodies dealing with conflict resolution within the system of collective bargaining focus on industrial collective

labor disputes and their concrete resolution. The social and economic councils also deal with the settlement of collective industrial conflicts, but their emphasis is on systemic issues, on the development of the strategy for resolving collective industrial labor disputes. At the same time, the social and economic councils at the national level also address the causes and method of settlement of the broader social conflicts. Of course, it is necessary to have in view the organic connection between concrete industrial conflicts and wider social conflicts, which is not always visible, but without that connection it is not possible to understand the nature and character of industrial and wider social conflicts, as precondition for their efficient settlement.

A common denominator for all the observed countries in Southeastern Europe is that all social and economic councils at the national level devote exceptional attention to the resolution of industrial and social conflicts.

It seems logical that the greatest attention in the documents and practice is devoted to the establishment and functioning of the mechanisms for the resolution of the collective industrial disputes that are most frequent in practice and which bear the greatest degree of social risk. They include conflict of interests and legal disputes in the collective bargaining process and implementation of collective agreements, prevention of strikes, as the most radical form of industrial conflicts and relations between the social partners during strike. The common denominator of all the mentioned mechanisms is voluntary undertaking of the peaceful conflict resolution by the social actors.

## **Final Considerations**

Europe is entering a new phase of its political, economic and social development. One of unquestionable characteristics of that new phase is social dialogue, upon which social peace, economic and political stability of these countries already rest. But social peace is also a strategically important goal to which aspire all social partners – political authorities, trade unions and employers. As human history has confirmed that there is never too much peace, so do contemporary history and ongoing processes in both the EU and in Southeast Europe confirm that there is never enough social peace. The experience of the EU countries, where social dialogue has achieved a high level, shows that it is a long-lasting, dynamic social process and that the achieved level of social peace and social dialogue opens scope for new steps, for new phases in the development of social peace and new forms of social dialogue. That process largely reminds of modern computer games, where the player goes from simple to more and more complex problems and where you first have to open one door to have access to another.

Southeast European countries are an integral, inevitable part of that process, that new phase in the development of the European Union. This arises from the contents of contemporary economic and political processes in Europe, and

in the world as a whole, where the integrative component is more and more apparent.

In other words, rational political and theoretical thought cannot, at least not in a rational and substantiated way, imagine Europe of the future as Europe in which only the EU will be based on economic and social prosperity, social peace, stability and social dialogue, and other parts of Europe on dominant contradictions, obstacles, industrial conflicts. On the contrary, Europe as a whole can have steady and stable development only if it is based on the same principles as the EU today. The present situation and the present differences in the developmental level of all aspects of the political, economic and social development between the EU countries and Southeast Europe in this context can be treated only so that in the present circumstances the more successful and stronger actors of this unique process – the EU countries – pave the way and help the weaker partners including, among others, the countries of Southeastern Europe, to proceed faster, more efficiently and safely toward these common goals. Due to these reasons, establishment and development of the social dialogue mechanisms is a common goal and one of the common denominators of the political and social processes in the EU and Southeast European countries. In this regard, social dialogue will certainly more and more assume the role of a bridge, of an integrating factor in linking the EU and the countries of Southeastern Europe. One can reasonably expect that social dialogue will be an efficient vehicle in the definition of the elements of the common strategy and way toward joint, integrated Europe and in this framework of the gradual reduction of differences in all aspects of the political, social and economic development.

For many decades now social dialogue in the EU countries has proven in practice its power, meaning and advantages compared with other mechanisms for making relevant political and other decisions in society. The very fact that social partners, and particularly trade unions in Southeast European countries, treat the establishment and development of social dialogue as a strategically important issue speaks in the most concrete way about the values of social dialogue. The national reports point out that social partners have high expectations from the introduction and functioning of the social dialogue mechanisms. These expectations are often much greater than the real social power and clout of the social and economic councils in the resolution of economic and social problems and contradictions. Namely, in all the analyzed countries of Southeastern Europe social and economic councils are conceived as consultative and advisory bodies, whose power and influence is based not on the force of political power, but on the reputation and authority of these bodies and their members individually.

In principle, social dialogue is based on relatively balanced social power of social partners. Disproportionate prevalence of one of the social partners breeds real risk that this social partner may abandon the principles of social dialogue, or abide by them only formally, while in reality he may impose his social interests using other means. Therein lies one of the main restrictions of the social dialogue in the countries of Southeastern Europe where the actors of social dialogue – primari-



ly trade unions and employers' organizations – have not been fully defined yet and where disproportion of the social power of the social partners is very pronounced. From this fact largely arise doubts about the role of the government in social dialogue. National reports often stress the dominant role of the state in the social dialogue mechanisms. The source of that dominant role lies in the generally overemphasized role of the state in transitional changes. The development of the mechanism of social dialogue can contribute to gradually reduce this overemphasized role of the state, although the role of the state in creating the legal framework and the entire social environment for social dialogue is irreplaceable. This is confirmed by the fact that an exceptionally large segment of social dialogue in the analyzed countries of Southeastern Europe focuses on the issues of legal regulation, i.e. on the creation of the legal framework for the new social environment.

One of the biggest, objective hindrances to the establishment and development of social dialogue in Southeast European countries is slow pace and insufficient efficacy of economic reforms and unexpectedly high social price of transition. High social price first and most hardly hits very numerous wage-earning social strata. On the one hand, this high social price of transition is a standing, real source of discontent and social conflicts. On the other, generally unfavorable economic opportunities and exceptionally high cost of transition restrict the possibility for reaching agreement among the social partners in the social dialogue. Namely, tolerance underlying social dialogue implies greater or lesser softening of the social requests compared with the initial requests. But this also implies realistic material basis for the concessions, which is often missing, particularly on the part of the workers, where every drop in wages most directly affects their vital interests.

Development of the network of institutions, strengthening of the role and social power of social dialogue at the national level is at the same time the first condition for the establishment of the social dialogue in the region. Of course, the establishment and development of the social dialogue depends on the overall development of the economic and political relations between the countries in the region, because that cooperation, as well as anticipated processes of economic and technological integration provide the substance to the social dialogue.

## **POLICY RECOMMENDATIONS – SUGGESTIONS FOR THE DEVELOPMENT OF THE SOCIAL DIALOGUE IN SERBIA**

Considering the fact that the social dialogue as a fundamentally new concept of the relations among the social partners – Government, Employers and Unions and as the new element in the political organization and life of the society is based on the principles of voluntarism, autonomy of will and confidence between social partners, for the affirmation of those principles there is a need for two crucial steps:

**1. Defining the actors of the social dialogue** – One of the major presumptions for an efficient establishment and further functioning of the social dialogue in Serbia is the clear definition of the actors of the social dialogue, in terms of their legality and legitimacy. This in particular refers to the finalization of the process of the determining the representativeness of the unions and employer's organizations in accordance with the Labor Law. With respect to the ILO Conventions 87 and 98, those criteria may not be too sharp so to avoid the violation of the freedom of the union organization defined by the international standards.

When speaking about the union representation – Labor law defined the criteria for the determination of the union representation:

- level of the enterprises – registration within the Ministry of Labor and Employment and that 15 percent of the total number of employed to be a member of certain union;
- level of the branch union – registration within the Ministry of Labor and Employment and that 10 percent of the total number of employed in the branch is the member of the union;
- level of the national confederation – registration within the Ministry of Labor and Employment and 10 percent of the total number of employed to be a member of the union.

The Ministry of Labor and Employment, other ministries in charge, employers in the enterprises in accordance with the unions should finalize the process of determining the representation of the unions and to concretely and clearly determine the representative unions.

When the employers' organizations as actors of social dialogue are concerned, the situation with respect to the representation is even more complex. Namely, up to now, one employer's organization – Serbian Employer's Association – employs 5 percent of the total labor force. This means that it can happen that this employer's organization concludes the collective and social agreements of different levels, but that in principle only small proportion of the employed is included. The resolution of this problem will take a long time and it might include the creation of new employer's associations.

**2. Legal regulation of the social dialogue process** – There is a need, in the shortest possible period of time for the creation of the legal framework with re-

spect to the social dialogue. Namely, above all it concerns the amendments and changes with respect to the Labor Law, legal regulation and protection of the rights to the union organizing, employment and strike issues. Having in mind the experiences of certain EU countries, the best approach would be to issue the Labor Codex – set of the interlinked laws that would systematically and legally regulate the sphere of the industrial relations, then economic, social and labor rights of the employed.

There is a need to make on a certain way a balance between the legal framework and the most important principle that needs to be included in any authentic process of the social dialogue, the principle of the voluntarism and the will autonomy of the actors of the social dialogue. This means that, legal regulations should provide the protection of the basic principles and should define the general framework, including the principle of the equality among the social partners. Specific questions and details should be raised by the actors of the social dialogue on the bases of the autonomy of the will and the agreement between the actors of the social dialogue.

There are several measures that need to be fulfilled for the accomplishment of the publicity principle of the social dialogue:

**3. Affirmation of the basic values of the social dialogue and its meaning and role in building the social piece** – This could be done by organizing public tribunes, preparation and publication of the propaganda documents (leaflets, posters) and appropriate popular literature. There is a need for the separate project on the roles and impacts of the public opinion on the social dialogue.

The project would incorporate two major aspects:

- Research on the public opinion on the social dialogue, its social functions, expectations, expected results, actors, etc.
- Analyses of the media content on the social dialogue and questions that represent the core issue of the social dialogue.

**4. Provide the transparency of the social dialogue process** – influence the actors of the social dialogue to make the process public, since this is the only way that general public could be included in the process.

In this respect, activities would need to be oriented into following directions:

- Support the public approach within the political sphere;
- Inclination towards the internal discrimination democracy of each social actor, that presumes the public approach;
- Public approach principle should be respected in the documents regulating the activities of the social-economic council and forms of its manifestation should be clearly defined in the same documents – announcements to the public, press conferences, media presence on the meetings of the social-economic council, etc.

**4. Better-defined role of the non-governmental organizations (NGOs)** – the role and the impact of the NGOs in the social dialogue is an open question not just in our country but in other countries as well. This should be openly discussed

(qualitative debate), with both, actors of the social dialogue and representatives of certain NGOs.

The most suitable approach would be to organize a thematic debate on the role of the NGOs in the social dialogue among the representatives of the current actors of the social dialogue (government, employers, unions) and representatives of the NGOs.

Those discussions (that are of great importance) could take place in certain number of selected localities, on the bases of the former prepared case studies on the possibilities of NGOs enrollment into the social dialogue on the local level.

**5. Better defined relation between the social dialogue and the other forms of the worker's participation** – There is a need about the interrelationship analyses between the social dialogue and other participation forms and the influence of the employees and the unions in the decision making process such as the collective bargaining, various forms of the worker's participation, etc. The main problem concerns the relationship between the collective bargaining and social dialogue, since in our and other countries, there is a theoretical and practical controversial debate, on those two forms and on the developing phase of the industrial and political democracy. Interdependence and functional linkages should be promoted in further theoretical and practical development.

**6. Passing a "Labor codex"** – Qualitative and democratic legal base that would be the foundation of the social dialogue practice could be established only if there is overall systematic labor legislation. This means that the Parliament should pass the Labor codex within the reasonable time framework – overall labor legislation package, with the active participation of all interested parties.

**7. Inclusion of the regional aspect of the social dialogue** – There is also a regional aspect of the social dialogue. In other words, beside the local and the national forms of the social dialogue, there is a need for simultaneous development of the regional forms of the social dialogue. In this respect, European movement in Serbia could start the initiative on the creation of the network of NGOs and experts that deal with the social dialogue issue.

Regional expert network would gather the experts that deal with different aspects of the social dialogue. On gradual bases, it would establish a permanent, coordinated system of the links and collaboration. In this respect, a data bank on the social dialogue could be developed, that would help in understanding the similarities and differences in the conceptions and social dialogue practice in different countries in the region, then publications on the significant research paper on the issue, possibilities of the joint projects, affirmation of the need for the regional cooperation with respect to the social dialogue.

In particular, it would be important to initiate the joint activities with respect to the harmonization of the labor and social legislation of the countries in the region with the EU legislation and with the international standards.

**8. Promotion of the general culture of the dialogue** – the most important obstacle in developing the social dialogue in our country is the non-existent

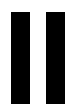
democratic tradition and non-satisfactory level of education. This applies to all actors of the social dialogue. In this respect, there is a need for the preparation and realization of the educational programs on one hand, and for the systematic preparation of the social dialogue actors for their activities on the other hand. The focus should be on the affirmation and the confidence building between the actors of the social dialogue. In addition, we should insist on the joint participation of the social partners in all educational programs. Those programs should also include the preparation and publication of the (i) summary on the relevant international documents and standards on the social dialogue issue; (ii) comparative analyses of the social dialogue in certain number of developed countries.

The above-mentioned comparative analyses should have primarily the educational character, but in addition to this could contribute to the analyses of the impacts that social environment, social and historical facts could have on different forms and objective goals of the social dialogue.

The comparative analyses should include the legal frameworks, specific way of the development in different countries, organizational forms, content of the social dialogue, factors that have an influence on the social power of the certain actors of the social dialogue.

The comparative analyses would also include the annex that would contain the documents provided by different countries, EU and international organizations with respect to the social dialogue.





# SOCIAL DIALOGUE IN BULGARIA





## **PRIVATIZATION, SOCIAL POLICY AND SOCIAL DIALOGUE IN BULGARIA – REPORT**

*This report was developed under the project Development of Social Policies to Accompany Privatization, implemented by the Center for Economic Development in Sofia, Bulgaria; the Balkan Institute of Labour and Social Policy in Sofia, Bulgaria; and the European Movement in Serbia, Belgrade, in the period January - November 2002, and funded by Freedom House. The Bulgarian report comprises a macroeconomic analysis of the environment, and analysis of the processes of privatization from various aspects. It is based on a specially conducted survey among decision-makers, implementers, participants, and experts in the areas of privatization, and social policies. The team combined the efforts of:*

*Dr. Maria Prohaska, Ms. Violetta Spassova, Ms. Liliana Doudeva, and Ms. Yana Georgieva (Center for Economic Development) who managed, organized, and coordinated the work of the team, developed the macroeconomic analysis, and conducted the special sociological survey; and Mr. Ivan Neykov, Ms. Rumiana Jeleva, and Ms. Elina Scarbew (Balkan Institute of Labour and Social Policy), who provided the social policy analysis and impact, within the framework of the project Privatization, Social Policy and Social Dialogue.*



# **BULGARIA: DEVELOPMENT IN THE CONTEXT OF TRANSITION PROCESSES; ANALYZING THE MACROECONOMIC INDICATORS**

In 1990 – the first year of the transition – the gross domestic product of Bulgaria drops down by 9 % compared to 1989 with 13% drop of industrial production. The pay back of the foreign debt is under moratorium and the country is completely cut off from the world financial markets. The basic features of the economic picture are the increasing inflation, the enormous inflation expectations, the sky rocketing dolarization, the shortages of energy and materials, and the collapse of traditional foreign economic relations. The state initiates remittance of the debts of state-owned enterprises by the banks, compensating it with the government debt.

The state of the Bulgarian economy in early 1991 can be defined as very close to collapsing. The continuing drop in production is accompanied with the suddenly rising unemployment – from 1.6% at the end of 1990 the unemployment rate rose to 11% in the end of 1991. In February 1991 a one-year stabilization agreement was signed with the IMF, which leads to introduction of a restrictive monetary and fiscal policies, and a strong restriction policy on incomes. The money over-supply is counterpoised by liberalization of almost all prices (in February – March 1991). It is followed by adjustment of the relative prices. The execution of the stabilization program is at a standstill at the end of the year due to lessened strictness in the income policies in response to sharp social tensions. The transformation of debts of the state-owned enterprises into debts of the government continues.

At the end of 1992, almost two years after the agreement with the IMF the country is still in a critical phase. The credit flows in the economy come from the households and are poured into the state-owned enterprises. There is present a pressing need for a more restrictive monetary and fiscal policy, but the political and social consensus on this matter is missing. The Privatization Law prepares the offi-

cial start of privatization – in response to the necessity to legalize the spontaneous transformation of property from the state to the group of related to the state future private owners. The transformation of debts of the state-owned enterprises into debts of the government continues further.

1993 in macroeconomic aspect is defined as a year with no reforms. The expansionist features of the fiscal policy, which had been introduced in 1992, lead to the highest deficit in the consolidated budget through all the transition years – almost 11% of GDP. The hidden privatization is still developing together with the "preparation" for open privatization through the decapitalization of the state property in the conditions of "state assets at private disposal." "The appropriated" income is financing the creation of new economic actors. The drainage of value added in the increasingly heavy indebted state enterprises to private persons is the source for the expanding private sector. The transformation of debts of the enterprises into debts of the government is still continuing. On the other hand from 1991 to 1993 the share of the value added in the private sector is doubled (calculated by excluding due imputed rent of owner occupied dwellings) in GDP (increased from 11.5% to 23.5%). In the rough periodization of the privatization process in Bulgaria<sup>1</sup> the first period which was over at some moment in 1993, can be summarized as the period of chaotic privatization, and the second period started – which can be named the period of stopped privatization (1993-1994).

The first currency crisis burst in March 1994. An attempt was made to return to the instruments of the stabilization program of 1991. The restriction in the income fiscal and monetary policies stabilizes the exchange rate and limits the inflation only at the beginning of the next year. The inflation processes in 1994 on the other hand resulted in increase of relative prices of traded goods, followed by a thriving in industrial production and a 1.8% GDP growth compared to 1993. Despite this, the bank crisis led to the redirection of money flows beyond the control of the Bulgarian National Bank, and pumped into the persisting-high inflation, followed by a lagging currency substitution. This gives analysts the grounds to maintain the view that in 1994 the overall economy is beyond control. The question is raised about overall at least three-year economic stabilization program, based on the exchange rate as a nominal anchor. Compared to the general picture of that year it is worth to note an indirect confirmation of the findings, that in 1994 the privatization (the official one) had stopped – the privatization is not at all in the focus of the analysis of the official annual report of the official Agency for Economic Programming and Development.

In 1995, for a second consecutive year, GDP increases, although twice slower in comparison with the other countries in transition. A comparatively favorable external environment is available, on an annual basis the inflation is more moderate, the unemployment decreases, the trade balance is almost zero, but still

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<sup>1</sup>Bulgarian text of the report under the project "Privatization, Social Policies and Social Dialogue"

positive. What is interesting to note is, that the source for economic growth both in 1994 and 1995 from the point of view of the ownership is the private sector. In 1995 the value added in the private sector notes a 21.6 percent growth, its share in the value added in the economy amounts to 50.6 percent, and in the employment rate – 40 percent. It is even more interesting to note, that at the same time there are no significant results of the official privatization – by the end of 1995 the official denationalization of state assets is below 5 percent of the assets of the state enterprises designated for privatization, and it mostly comes from small municipal property. The seemingly existing paradox, which combines "a quickly growing and already prevailing private sector" with a negligible official privatization, can be only interpreted with the accelerating growth of the newly created private business. Whence the large resources for its creation (with the exception of restitution and the small savings of households) – this is most probably accumulation of resources from hidden privatization, the start of which can probably lie a long time before the sacral year 1989. The abrupt administrative change in the interest rate (from 72% annual at the beginning of 1995 down to 34 % in August) activated a new wave of currency substitution. The attempt to counterbalance it – through providing a resource from the currency reserve – started to shake the financial system.

In 1996 the economy started abruptly to plunge with the largest-ever annual drop in GDP (-9.4%) for the whole period of transition. No doubt the economic collapse in Bulgaria is influenced by the cyclic recession in Western Europe. The major reasons though are of domestic origin. During that year the negative effects from the induction of higher economic activity in 1994 are manifested, as the budget takes most of the debts of the enterprises to the banking system. The accumulated during the years of transition problems of capital adequacy of the commercial banks are demonstrated in 1996 in a lasting destabilization of the banking system and the accelerated growth in the money aggregates, destroy the trust in the lev as the national currency, and forces withdrawal from the banks and hectic demand for foreign currency. In the course of the year the Bulgarian National Bank raised the basic interest rate 6 times (from 34% at the beginning the year to 300% in September), but it was not enough to stop the withdrawal from the lev. The attempts to save the banking system led to overload of the government budget, whose deficit rose almost twice compared to the previous year (up to 10.3 percent of GDP), and the domestic government debt, which also increased almost twice. It is in these circumstances that mass privatization is at its height, and it marked the third stage of the periodization of official privatization. Although 1996 showed some increase in the denationalization of state assets than in all previous years put together (6.19 percent compared to 4.65 percent) the overall amount is below 11 percent of balance value in the end of 1995 of the state enterprises designated for privatization. In the conditions of the macroeconomic destruction, the fiscal-monetary collapse, and very modest official privatization, the private economy continued to grow – the value added increases by 4.5 percent, and the share of the private sector (calculated by excluding due imputed rent of owner occupied dwellings) in GDP is almost 40 percent.

At the beginning of 1997 the panic is already beyond the control of the instruments of multipurpose monetary policy. The psychological effect from the solution of the Cabinet crisis and the appointment of the Caretaker government turned out to be more efficient than the instruments of multipurpose monetary policy themselves. In a long-term perspective the situation imposed a total shift in the macroeconomic philosophy. "The multipurpose" role of the Bulgarian National Bank was limited – with a public consensus – into a role of a currency board whose main purpose is to achieve and maintain stable prices. The direct consequence was, that the inflation rates started to reflect the relative price changes, and did not originate from monetary factors. The period of actual privatization started in this particular environment. 1997 is a very peculiar year – the resulting economic recession from all the previous years is plunging, while on the other hand the decisive shift in macroeconomic policies lays the foundations for growth, which was observed in all the following years. Most probably the momentum for change is the strongest in 1997, and mostly as a result from it this is the year of best indicators recorded from official privatization. During the whole recoded period with data on officially privatized state assets (1993-2002), the largest share of denationalized assets was in 1997 -27.8 percent of the designated for privatization.

The macroeconomic dynamics since 1998 is a lot smoother, the regulations of the currency board do not allow for chaotic macroeconomic maneuvers with snowball effects. The changes in most of the macroeconomic variables reflect to a large extent the ability of the Bulgarian economy to respond to the influences of the changing external environment. The greatest socio-economic problem is the unemployment. The annual growth in unemployment is higher than the increase in employment rate in the private sector. Although at the beginning of the new millennium the private sector is undoubtedly the greatest generator of overall economic growth – both due to its structural dominance in the economy, and to the speed of its economic activities, the data show that at this stage, its development was still incapable to counterbalance and alleviate the most painful social problem – the unemployment. (Refer to table).

In the period 1997-1999, which is arbitrarily defined as the period of actual privatization, the share of the private sector in the generation of value added and GDP is in fact at a standstill, while on the other hand a total of 60 percent of the assets designated for privatization was denationalized during these three years. This means that something somewhere in the various groups of actors in the private sector was wrong, some were successful to grow, others were not – but probably the extent of the unsuccessful ones was larger than that of the successful ones, which resulted in – compared to the background of quickly increasing mass of private actors – a rather modest rate of aggregate growth of the private sector. *How much the privatized enterprises contributed (and because of their scale mostly stressing the ones privatized in the period 1997-1999), to the overall economic growth of Bulgaria recorded since 1998 – is a matter of (still missing) structural analysis on the private sector and most probably some panel-type calculations, which should*

*be done for the dynamics of the economic indicators for the various groups of actors, shaping the private sector.*

Since the start of the officialized privatization in 1992, with the adoption of the Law on Restructuring and Privatization of the State and Municipal Enterprises, and to this day it is obvious that a significant share of the state has already changed title and is a private property.

Resulting from the 4,839 finalized privatization deals (2,637 sales of whole enterprises and 2,202 sales of separate parts of enterprises), as of 31 August 2002 53.24 % of the assets of state enterprises are denationalized (or 80.63 % of the assets designed for privatization). There is no summarized data on what share of municipal property has been privatized in Bulgaria so far. The overall financial effect from the closed privatization deals of state owned enterprises as of 31 August 2002 amounts to USD 7,510 ml., including USD 2,997 million contracted payments on the deals, USD 1,079 ml. taken or settled debts by the buyers, USD 3,434 ml. undertaken obligations for investments. For the period 1992-2001 through 157 privatization deals with foreign investors in Bulgaria the inflow is USD 1,448 ml. (19.3% of the total financial effect from privatization). On the other hand, privatization generates about 32% of the total volume of direct foreign investment, which amount to USD 4,494 ml. for the same period. The other 68% (USD 3,046 ml.) in the structure of direct foreign investments are Greenfield investments (in new enterprises) and investments in enterprises with foreign participation. There is no evidence though of the overall financial effect from the privatization of municipal enterprises.

This attempt to analyze the privatization process in Bulgaria compared to the dynamics of the basic macroeconomic variables is still incomplete and could not be made complete. To this day government institutions maintain records on the denationalization of state enterprises. What is lacking though, is summarized (for analysis purposes) information about the pace of municipal privatization in Bulgaria in the transition period. Secondly, no information has been generated on the economic indicators of the "panel" officially privatized enterprises (both state and municipal) and it is impossible to establish their specific contribution to private sector dynamics, correspondingly it is impossible to establish the way the process of official privatization has influenced the overall economic dynamics. This is only a part of the problem of (im)possibility for a complete analysis on the private sector genesis, and hence the (im)possibility of a structural analysis on the dynamics of economic indicators in the private sector by their origin. The answer to the question about the origin, specifically the metrification of – probably – large part of the resources for the newly emerging private business – we mean the hidden privatization of state and municipal assets – is likely never to be revealed. Finally, by the end of 2002 it is hardly in Bulgaria that can be assessed, particularly in retrospect, what part of the private sector dynamics is generated by the newly-emerging private business, by privatized state enterprises, by privatized municipal enterprises, by the

restitution, and probably by other forms of private business constitutions – in order to establish their structural contribution to the overall economic growth.

## **Bulgaria in the Nineties and the Impact of Private Ownership**

The establishment of private ownership and the prospects of holding property title are determinant in the transition to a market economy in the reforming countries in Eastern Europe.<sup>2</sup> Apart from privatization in the narrow sense i.e. transferring state-owned property to natural and legal persons, privatization in a larger perspective implies establishment of a new private sector, structured on a market basis. This sector will be essential for the further development of citizens' property rights. The citizens' property rights are constituted and guaranteed by the political institutions and the political subjects. Since property rights determine the opportunities for access to resources, property allocation constitutes also the allocation of wealth and power in society.

Therefore, the way of formulating property rights not only determines the economic results of a certain economic system but also constitutes the allocation relations. Due to the direct impact of ownership on the process of allocation of wealth and power in society, property rights are potentially related to a great number of conflicts. Moreover, each attempt of establishing a new order of property and allocation rights poses yet greater risks of instigating conflicts.

A process of privatization was carried out in Bulgaria in the 90s, i.e. a process of establishing a new order of property and allocation rights. As in almost all post-socialist countries, in Bulgaria too, the process of privatization was accompanied by political contradictions and serious conflicts of interests, which in certain instances acquired the features of public scandals. There are numerous reasons for the low public trust and the lack of support for the privatization process, but they can be discussed only based on the specific evidence of a particular privatization deal. In general, however, the practices and the analyses of the privatization process in Bulgaria have established a negative attitude to the process of denationalization of state assets and have put in doubt the benefits from its implementation. This prevailing public opinion, in our view, is a result of the high social price paid for the privatization in Bulgaria. The delay of privatization, including the late start of the actual privatization (not until 1997), as well as the manner of its implementation in Bulgaria (the privatization schemes and procedures applied, the lack of domestic moneyed investment interest and specifics of this kind) determined the accumulation of social tension, which has accompanied every privatization deal. The higher social price of privatization in Bulgaria, as compared with most of the former socialist countries such as the Czech Republic, Poland, Hungary, and the Baltic states, manifested itself in the rising unemployment resulting from the privatization and

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<sup>2</sup> For a similar opinion see Pashev 2002:53.



the inability of the state in transition to compensate it by adequate social measures. The efforts of the state to compensate the negative social impact of privatization were oriented mainly to imposing on future owners of state enterprises social commitments on a contractual basis for worker retention (keeping the number of jobs unchanged for a certain period of time) or paying financial compensation in the form of severance pay in the case of layoffs or reduction in the number of jobs for specific industries. Very little or almost nothing has been done for utilizing labour, made redundant in the course of privatization and redirecting it through training or retraining to other industries and sectors of employment. The expectations that the private sector emerging as a result of the privatization will create sufficient number of jobs turned out to be an illusion. Privatization is anything but a panacea for economic prosperity of the economy as a whole or of a particular enterprise. It is an economic process at the start of which the initial prerequisites should be clearly defined and the future consequences – political, economic and social – carefully considered. In this sense the mechanisms for social dialogue and its form at all institutional levels are an important means for minimizing social tensions and ensuring support for the economic reforms both in the course of denationalization of state assets and in the post-privatization period. An attitude of responsibility of the social partners is an important prerequisite for establishing a political consensus in society concerning the manner of privatization. Where the social partners and the labour unions, in particular, pursue corporate interests and do not realize or play their innate role of a corrective in the political process including the process of denationalization of state assets as a political act, the social aspect of privatization is abused and used for the benefit of certain separate groups or individuals. A good example of this is not only the model of privatization through MEC (Management Employee Companies) in Bulgaria, which allowed for a legal drainage of the state enterprise funds, and on that account it is often defined as the most vicious method of privatization in Eastern Europe.<sup>3</sup> Similarly, we can point out in this respect the considerable preferences for the workers and the managers granted under the influence of the Solidarnost trade union in Poland. Subsequently, the increased influence of the trade unions in the Polish enterprises had a negative effect on the development of the economy, again because of the wrong understanding of the social aspect of privatization, i.e. the managers, workers and other employees of the respective enterprise being entitled to the property and/or the management of the company without taking responsibility for the state of the company. The privatization practices and the post-privatization development of enterprises show unequivocally that the most successful privatization deals are those where the buyers have managed to establish efficient corporate governance structures in the company, have streamlined the production process, have succeeded in implementing technical and technological modernization. Any other presumed merit of the future owners of

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<sup>3</sup> See Grosfeld 1991:5.

a state enterprise but their capacity to develop it efficiently and to turn it into a competitive company seems unworthy and results from political prejudices.

This report aims at discussing the problems of the relationship *privatization-social policy-social dialogue* in Bulgaria. The first part of the report is an attempt to discuss the theory, legal regulation and the institutional framework of the process of privatization. The second part outlines the contours of the social policy and social dialogue in the context of economic and political transformation. It also introduces the social partners in Bulgaria. The third part of the report provides an analysis of social policies and social dialogue that accompany privatization and after the completion of denationalization of state assets as part of the Bulgarian economic practices. Stepping on a survey of the numerous publications on privatization issues and based on the data from a specially carried out sociological survey, in the conclusion, we discuss possible measures and actions for neutralizing the negative social impact of privatization. This attempt has been made in order to outline the basics of a strategy and to prepare the Serbian privatized enterprises for dealing with the challenges of the transition period.

# PRIVATIZATION IN BULGARIA: PRINCIPLES, MODELS, EFFECTS

## Principles of Privatization

Privatization is a process, which is characteristic not only in the East European countries but it was implemented before the 90-ies, too. The term *privatization* was first used in the economic vocabulary at the beginning of the 80-ies. In its broadest sense, privatization means improving the efficiency of the national economy by eliminating bureaucratic control on the operation of state enterprises. In a narrower sense, privatization means transferring property rights and control from the state sector to the private sector, which is most commonly effected by selling the capital value of the enterprises.<sup>4</sup> In this report privatization implies "privatization from the top" of enterprises which are state-owned property.<sup>5</sup>

"... in the former socialist countries privatization is not merely a transfer of property rights from one subject – the state, to other subjects – private persons. **It is a means of implementing a transition to a kind of management system of economic activity where ownership plays a certain role and matters.**"<sup>6</sup>

The process of privatization started in the 80-ies and affected practically all the countries of Western Europe.

The main reason for the implementation of privatization was the established sharp decline in the efficiency of state-owned enterprises and their continuous lagging behind the private enterprises by a number of indicators. Their negligence of market mechanisms placed them in artificial unreal conditions. As a result,

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<sup>4</sup> Nikolaeva 1990

<sup>5</sup> See Winiecki 1993:174

<sup>6</sup> Kalaydgiev/Stancheva/Popov 1996:12

*For the past two decades a real privatization wave has swept the whole world - the developed industrial countries started the process as early as the 80-ies, followed by the developing countries and the post-socialist societies of Central and Eastern Europe. Between 1988 and 1993 a total of 2,655 transactions were made (not taking into account voucher privatization) in 95 countries. From the total of 271 billion USD revenues from privatization, the developed industrial countries account for 175 billion and the developing countries account for only 96 billion. If we examine the increase of privatization revenues we may come to the conclusion that the smaller the share of the state sector of the economy and the better developed the market infrastructure, the more successful the privatization process in the respective country.*

the state sector lost its competitiveness and the prospects for survival of state enterprises depended yet more often on receiving subsidies from the state budget and other protectionist measures. The outcome was a huge domestic budget deficit, which could not be compensated with the revenues from the profitable enterprises of the state sector. Meanwhile, the fast developing processes of integration among the countries of Western Europe in the 80-ies required stabilization of the national economies, and consolidation of the major industries, i.e. where in general the state enterprises were the most numerous. The main characteristic of the privatization process in the 80-ies was that each of the West European countries adopted its own strategy and its own specific way to implement the denationalization of state assets.

Concerning the processes of privatization in West Europe two views are held in general in the specialized literature about the possible analogies between the privatization of the 80-ies and the process of denationalization of state assets in the former socialist countries. A number of Bulgarian authors<sup>7</sup> state that the privatization processes in Central and Eastern Europe have no analogue. The unique character of the process in Eastern Europe is determined not only by the different initial conditions but also by the necessity to transfer a considerable part of public wealth into private ownership within a relatively short period of time.

"In this sense the comparisons with the privatization of the 80-ies in Western Europe and some other places in the world are wrong and irrelevant. We can definitely say that the latter privatizations are on a much smaller scale compared with the privatizations in Eastern Europe and incomparably easier. The sale of shares of a small number of enterprises on

*On the whole, the state sector in Western Europe did not change its dimensions tangibly in the 80-ies. It accounts for between 10% (in former FRG) and 10.5% (France) of the gross domestic product. The steps planned and taken for denationalization of the state sector by 1988 were modest and affected not more than 5% of GDP and the actively employed population. Britain was the only exception in which for the period 1980-1988 the share of GDP generated by the state sector decreased from 11% down to 6.5%, and the number of employed - from 8.4% to 5.7%.*

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<sup>7</sup> See Popov 1993

the stock exchange is not of great consequence and the fact that the shares on sale belong to state enterprises does not change the course of things."<sup>8</sup>

Other experts stress on quite the opposite – we will have to take into consideration the experience gained from privatization in Western Europe in the 80s, and there is no room for likes or dislikes.

*At any rate, knowledge about the West European privatization experience in the 80-ies is not useless. Particularly elucidating is the practice of privatization in West European countries as it has been executed chiefly by using the sophisticated and expert mechanisms of stock exchanges in the conditions of well-developed capital markets and moneyed local investment interest.*

On the whole, the prevailing view is that between the aims, conditions and the results of privatization in Western and Eastern Europe there are significant differences<sup>9</sup>. The privatization in East European economies in transformation is a part of an overall social change. It is not simply a privatization of separate enterprises in separate economic sectors but denationalization of the whole economy. The process of privatization is instrumental in constituting one of the basic institutions of the market economy and the market society: private ownership of the factors of production. Together with increasing production efficiency by establishing adequate governance structures in the enterprises, through depolitization of the economy i.e. diminishing the state administrative and commanding functions in the economy, withdrawal of the state from the economic processes and restricting its role within the boundaries of its classic, innate functions – to encourage the free incentive and competition – are among the expected positive results associated with privatization.

The defining of property rights and the formulation and implementation of specific privatization strategies is carried out within the framework of the political process. This implies that privatization is essentially a political phenomenon and its implementation depends to a great extent on the manner and rules of the political process in each given society. The domain of politics is characterized by a greater degree of imperfection than that of the economy. In this sort of situation, the political and economic actors, driving forces of the transition in Eastern Europe in the 90-ies have numerous reasons, which push their corporate and/or individual interests in a different direction from that of increasing the efficiency and prosperity of the separate enterprise or of the overall economy. In a society where the institutional structure itself is subject to change, the players are under influences coming from different directions i.e. new and old institutions and norms simultaneously co-determine economic decisions and actions. The implemented practices of privatization methods and procedures are rarely a product only of economic reasoning.

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<sup>8</sup> ebd.:11

<sup>9</sup> For detail about the specifics see North 1996; Winiecki 1992; Nuti 1992; Blommenstein/Geiger/Hare 1993. About privatization in the UK see Clarke 1994.

The more common case is that they result from institutionally predetermined political compromises and from limited circumstances.

Privatization itself could not guarantee the functioning of the market or the market economy itself. Establishing the adequate legislation and judicial system which will provide for the observation of rights ensuing from contracts or trade relations, creating an environment conducive to competition between the economic players, establishing a capital market and implementing a restrictive monetary policy and a reform in the taxation system are the minimum must of measures to accompany the process of privatization. Inevitable insolvencies and bankruptcies in some loss-generating state enterprises should be declared without too much delay. Another problem, which should be solved, is the pressing need to establish and enhance an adequate economic culture and values, which will meet the requirements of the new market institutions and norms.<sup>10</sup>

In conclusion it should be stressed that the privatization in Central and East European countries is implemented in a completely different institutional context compared to that of the well-developed economies of the West. While in the conditions of a market economy the privatization of separate enterprises can take years, in the case of transition countries it is a matter of denationalization of the whole economy within a considerably shorter period.<sup>11</sup> The privatization in these countries is a constituting element of the whole socio-political, economic and social change in the 90-ies<sup>12</sup>. The privatization policies must create the prerequisites for the functioning of market institutions together with the other reforms. All these considerations give the grounds to define the privatization in East European countries as a specific process of "the transformational privatization" (Jasinski 1992).

"Instead of transferring individual enterprises from a public into an existing dominant private domain, with operating market institutions long habituated to such operations by the society – the process of transformation in post-communist countries consists of privatization of the entire economy accompanied by its marketization" (ebd.).

The circumstances, in which privatization policies are carried out in Western, and in Eastern Europe, are fundamentally different.<sup>13</sup> While the privatization of separate enterprises operating in the functioning market economies of the Western countries aims at increasing their economic efficiency, the privatization in

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<sup>10</sup>See for details Anderson/Hill 1996; Kornai 1991; Ash/ Hare/Canning 1994; Grosfeld 1991; Stiglitz 1993.

<sup>11</sup>See for instance Kornai 1991.

<sup>12</sup>See Frydman/Rapaczynski 1994:47; Balcerowicz 1995:193; Canning 1994:217; Zecchini 1993: 75.

<sup>13</sup>Piotr Jasinski point out, that in this sense the developing countries are quite similar to the developed countries. When privatization starts, the developing countries have already built, although in a very imperfect form, some of the essential institutions of the market economy.

post-socialist countries is predominantly focused at creating the framework of a market economy. Private ownership on the factors of production as one of the pillars of market economy must be established as the prevailing, dominant form of ownership in the reforming societies.<sup>14</sup> This means that the picture would not be complete if the macro-economic effects resulting from the institutional building of the market are not added to the positive micro-economic results from privatization (achievement of greater company efficiency). Frydman and Rapaczynski combine the micro- and macroeconomic aspects of privatization into the concept "joint effects of efficiency resulting from privatization."<sup>15</sup>

## **Objectives of Privatization in the Transition Economies of Eastern Europe**

The survey of the extensive literature on privatization in the post-socialist countries allows for distinguishing two major objectives of privatization. These are depolitization of economy on the one hand i.e. decreasing the command-administrative role of the state in the economy, and on the other hand – the establishment of efficient structures of corporate governance.<sup>16</sup>

Depolitization of both the economic process and the decisions of the economic actors generally imply separation of the state from the economy. The state, respectively, the state administration, and politics, respectively, the political class, must withdraw from influencing the entrepreneurial decision-making process. The building of institutions, which provide efficient structures of entrepreneurial control and governance, should assist the recovery and reorientation of the economic systems of the former socialist countries. The efficient controlling and governance structures in the enterprises are a prerequisite for their restructuring.

The depolitization of the economies of former socialist countries as a purpose accomplished through privatization is of vital importance for the successful transition to a market economy. As J. Stiglitz points out "the case for privatization is a political one."<sup>17</sup> In this sense denationalization is considered as the next inevitable step after price liberalization, which will enable the liberation of company strategies from political guardianship, and will assist their orientation to permanent compliance with the market and the market principles.<sup>18</sup> Otherwise, company managers will continuously make attempts to negotiate with government officials (formally or informally) provision of subsidies, tax relief, rescheduling of debts,

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<sup>14</sup>See Dini 1993

<sup>15</sup>See Frydman/Rapaczynski 1993:65

<sup>16</sup>See Frydman/Rapaczynski 1994:141-142; Boyko/Shleifer/Vishny 1995:11-13; Boyko/Shleifer/Vishny 1994; Horvat 1995:120

<sup>17</sup>See Stiglitz 1993

<sup>18</sup>See Shleifer/Vishny 1994

low-interest loans or other protectionist measures. Thus such business organizations will continue to behave in a non-market manner. Which actually enables politicians to interfere in the formally autonomous enterprises. This creates favorable grounds for *rent seeking* type of actions from the politicians. One of the objectives of privatization should be to curb the chances for political influence on the actions and decisions of entrepreneurs.

In a long-term perspective, macroeconomic stability is also related to the successful depolitization of economic activities, which results from privatization. Privatization is not a magic potion against protectionism and subsidizing to an extent beyond the logics of the market. At any rate, however, it increases the transaction costs of the economic subjects in their attempts to seek *lobbies* among the political elite and the representatives of the state administration. Privatization itself is not a guarantee of the state withdrawal from the economy. The development of intrinsically new commercial legislation, which will clearly define, and guarantee the rights of the economic actors together with price liberalization and the privatization of state enterprises, is pointed out as a determinant to successful depolitization.

In a long-term perspective the depolitization of the economy would be successful only if privatization creates the conditions for the development of private entrepreneurs, who would be independent from the state. The institutionalization of efficient structures of corporate governance in the enterprises is a prerequisite for the emergence and the establishing of new economic interests, which will oppose the attempts of pursuing and respectively implementing state protectionism. The nature of the introduced control mechanisms will determine the effectiveness (if any) and the extent of the incentives for restructuring of the enterprises. The efficient corporate governance structures and the depolitization of the economy do not unconditionally result as the consequence of privatization. It is not only the choice of the privatization strategy but also the general framework conditions of the economic policy and the new developments in the institutional infrastructure that are of crucial importance for the establishing of efficient structures for control on the activities of the economic actors.

In the context of building efficient structures of *corporate governance*, it is of paramount significance to know the profile of the new owners i.e. who replaces the state as an owner of the enterprise; what the ownership of an enterprise in transition means, whether the plant should be sold to the workers employed in it, etc... The answers to these questions are important, since the type of ownership affects the level of transaction costs of the enterprises, including financial incentives, which have a direct impact on the economic behaviour of business organizations. If the functions related to property rights, such as the property title, management and administration are implemented by different persons, the building of efficient corporate governance structures, and the minimization of conflicts between the separate groups of interests turns into a central problem to be solved by the enterprise<sup>19</sup>. For

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<sup>19</sup>See Richter/Furubotn 1996; Andreff 1996



instance, all the models of voucher privatization, whether in the Czech Republic, Bulgaria or Russia, created a multitude of small shareholders and as a result the building of new corporate governance structures in the privatized enterprises was in confrontation, to a particularly large degree, with the so called agency-problem.

*In the developed capitalist economies, the common case is when the property title and the management are in the hands of different persons. Separation of ownership from management in the conditions of asymmetric information and unpredictability of future developments leads to the problem of control discussed in the principal-agent theory. The interests of the owner (principal) and the interests of the management (agents) do not coincide. Company managers have unlimited power for action. The agency costs increase the transactional costs and decrease the additional revenues of the owner. In order to maintain these costs at the lowest possible level a number of mechanisms to discipline management have been developed and introduced in the economic practice of the western market-based economies: in-house disciplining by an appropriate remuneration scheme; labour-market disciplining, capital-market disciplining and operational disciplining.*

The reason for confrontation of interests of the owner (principal) and the management (agent) in the transition economies is the initial lack and later the insufficiently developed institutional infrastructure of market economy, as well as the obstacles and the legal and judicial disorder in implementing property rights. Management is in a very powerful, almost uncontrolled position. In general, the external control on the management operations in a period of crisis is of great significance. The insufficiently clear definition of property rights, the ineptitude to provide for their legal and judicial enforcement, the deficiencies in accounting and recording methods and the *shirking* mechanisms, which have been elaborated for years, complicate tremendously the control on the operation of the management in transition economies.<sup>20</sup> The economic behaviour of the management, including the time span in which it places its activity, is directly related to its expectations for retaining or losing its position in the enterprise. In the cases where the future loss of managerial position is more probable, decision-making and actions are predominantly based on short-term profit reasoning ("strikes"), even if the prospects of the enterprise in a long-term perspective look good. Another possible strategy of the managers is stripping the company of its assets and transferring them into the managers' own property (asset stripping). Another common strategy is presenting a deliberately low assessment (mostly through closing unfavorable contracts and thus increasing the company liabilities by large amounts) and maintaining unrealistically low company value, which would provide for a management buy-out at exceptionally favourable terms.

The problem of property rights and management is additionally complicated by the strong position of the employees, respectively the labour unions, in the

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<sup>20</sup>See Frydman/Rapaczynski 1994, Ujedinjene Nacije 1992; Blommenstein/Geiger/Hare 1993

enterprise (Poland, Bulgaria, Russia) and their involvement thorough various methods in the privatization process. The so-called *management-employee-buy-out* coalitions between the management and the employees are an obstacle before the restructuring of enterprises, since they, as a rule, are against redundancies.<sup>21</sup>

The long-lasting lack of investments in the state enterprises in the period of socialism requires immediate inflow of fresh financial resources and know-how and modern technologies in the enterprises of Central and Eastern Europe. It should be stressed that this task is difficult to implement since the scarcity of national capital resources in the former socialist countries is ubiquitous. Meanwhile, foreign investors encounter risks of economic and political character, which increases the transactional costs and raise the price of incoming capital in the transition economies. In these conditions the implementation of a concrete privatization programme as far as it affects the improvement of corporate governance structures is of predominant importance.

Therefore, when a privatization strategy is selected it is necessary to take into consideration all the aspects of corporate governance of the enterprises.

## **The Specific Role of the State in the Privatization Process**

The role of the state in privatization should not be viewed as simply the technical provision of coordinated actions for transferring property rights to private entities. As Brabant (Brabant 1994) points out, privatization is political economy par excellence. Since the implementation of privatization results in a new (different) allocation of resources and power in the societies in transition, it has prompted talk about persons who have gained and persons who have lost from the denationalization of state assets. The debates held in societies in transition on privatization transfer of property rights and the legalization of new property relations, are symptomatic of the typical conflict of allocation of resources, i.e. of a social conflict.<sup>22</sup> For this reason the political coordination of the privatization process on the one hand and the social policy of the state in transition on the other hand are essential for accomplishing the purposes of denationalization of state assets and the successful implementation of economic reforms.

The state, respectively, the bodies of executive power are the initiator, the main driving force and the guarantee of privatization. In order to maintain political consensus, governments aim at achieving balance between the interests of the voters

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<sup>21</sup>Filatotchev/Grosfeld/Karsai/Wright/Buck 1996; Estrin 1994; Frzdman/Rapaczynski 1994; Kornai 1991; Andreff 1996.

<sup>22</sup>In this report the term social conflict has been used not in its narrow sense as a conflict between labour and capital, but in its broader meaning as the modern social conflict (R. Darendorf).

and the aspirations of the strategic groups in society.<sup>23</sup> Governments have two options for achieving this aim: either to make a coalition with the most powerful groups of interests or to pay compensation to potentially deprived social groups. Bearing in mind the non-existence of democratic traditions in post-socialist countries, we can maintain that the dominating mechanism of coordination is the informal agreement with the different groups of interests. In support of this presumption is the fact, based on observations in Central and Eastern Europe (CEE) countries, that the implemented privatization policy bears no effect on the results of the political elections. On the other hand, however, the society inherits from the period of socialism numerous groups of interests, who may gain or lose from the process of privatization. At the start of the reforms governments are usually confronted by an unchanged balance of interests in the society, respectively of the strategic groups, representing these interests. During the voucher privatization, the equilibrium, underlying this balance of interests is ignored quite successfully. Quite commonly, the reasonable consequence of this process is the discontent and opposition from the privatization policies. The government then faces the problem of lack of support for the privatization process. On the other hand, however, privatization (including voucher privatization) creates a new group of owners (no matter how small in number), who pursue their own interests and in so reforms become irreversible. Therefore, the less capable the governments of utilizing the initial favorable support to the changes, the more problematic the privatization. The more time is wasted in approving and implementing the privatization programme, the later the start of the process, the more successful the shaping and mobilization of the former groups of interest and the better the implementation of their strategies for acquiring the asset of the former socialist enterprises. Since monetary compensations for those losing from the transformations are impossible, voucher privatization is often used for building new coalitions with the purpose of securing support for the government policy. The experience of almost all post-socialist countries from voucher privatization shows that both this effect, and the other projected effects from privatization seem at least quite suspicious.

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<sup>23</sup> The strategic groups consist of persons united by the common interest of protecting or increasing their mutual opportunities for acquisition. These opportunities for acquisition are focused not only on material wealth but also on knowledge, prestige, power or other, some of them - religious objectives. In order to impose their chances to acquire property or other resources, the strategic groups - certain groups or organizations - develop long-term programmes, which are approved and implemented by their leaders and members. The transition to a market economy or the imposing of certain monopolies, the increase or decrease of taxes, the establishment of political parties or movements, the deregulation of economic processes and the integration into the world economic system, etc. are social strategies, which can be clearly differentiated, and identified with the corresponding long-term development programme of the society. Contrary to the groups of interests and their short-term interests in collective actions, the strategic groups implement a long-term programme to achieve their purposes and thus have a significant impact on the pace and direction of social development. See also Evers/Schiel 1988.

## **An Attempt at Defining the Actors in Privatization**

At the start of the reforms the participants in the debate on privatization, apart from the government, were mainly representatives of social groups, typical of the former socialist system, and representatives of the management of state and municipal enterprises.<sup>24</sup> As the transformation process progresses the role of the new players such as banks, investment funds, and foreign investors, gets stronger. On the basis of the social structure of former socialist societies, four types of actors – strategic groups in the privatization process – can be identified:<sup>25</sup>

1. The corporate interests, articulated in the socialist period, of representatives of the state administration in the economic area.<sup>26</sup>
2. The representatives of the nomenclature – most frequently individuals or clan-bound networks, who transfer their political (administrative) power into economic resources and power.
3. The newly-formed political actors, who are in general not united by political interests, but are organized for accomplishing non-economic, ideal purposes, for the sake of moral and political values and cultural symbols.
4. The new economic actors appearing in the course of privatization together with the emergence of market principles.

## **Development of the Privatization Process in Bulgaria (Since the 90-ies Through 2001)**

### **Institutional Framework**

Privatization in Bulgaria started officially in April 1992 with the new Transformation and Privatization of State-Owned and Municipal Enterprises Act (herein called for short the Privatization Act). The Privatization Act constitutes the institutional framework of the process – it defines the procedures, the rules and the administrative bodies, and their capacities in the denationalization process. The Privatization Act stipulates the introduction of a large number of legal regulations

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<sup>24</sup> Whether the director of a state enterprise would be "in favour" or "against" its privatization is determined by a number of factors (the profit and competitiveness, expectations for the future development of the enterprise, securing the director's own job, etc.)

<sup>25</sup> This survey of the actors, taking part in the privatization is based on Melanie Tatur's analysis (1995: 95). See also Siehl 1997.

<sup>26</sup> Melanie Tatur (1995) uses the term "state corporativism" which is identical with "administrative market" (Kordonsky) or with "bureaucratic market". It emphasizes the processes of negotiations within the state administration, which services the privatization process and the influence of the various pressure groups (segments of the state administration employed in the economic area) on the policies.

(ordinances of the Council of Ministers) which come to specify concrete aspects of privatization such as various procedures, methods and mechanisms of evaluation of state companies' worth, access to information, the establishment and activities of the privatization funds, etc. In addition, we must note that numerous amendments to the Privatization Act have been made due to already existing ordinances. Due to similar and other reasons the Privatization Act has undergone a large number of alterations. For the period since its adoption by Parliament up to 1999, i.e. for only seven years the Privatization Act was amended over 20 times. The constant alterations made in the framework of the Act are aimed at creating conditions for the participation of a diverse circle of investors in the process, including management-employee companies. In general the Privatization Act is one of the most frequently amended laws in the transition period, which results in frequent shifts in the privatization strategy. Some of the basic principles governing the privatization in Bulgaria are as follows:

- The decentralized approach is selected for implementation of the process. This means that the capacities are divided among different institutions – the Privatization Agency and the branch ministries are in charge of the privatization of the state-owned enterprises, municipalities are in charge of the privatization of municipal property on their territory. The division of enterprises designated for privatization between the Agency and the branch ministries was determined on the basis of the balance worth of their fixed assets. Unlike the centralized privatization in the eastern provinces of the Federal Republic of Germany, where the privatizing body is one, in Bulgaria (as in the other former socialist countries) more institutions are created, which have the capacities to manage and implement the sale of state-owned enterprises. Based on this reasoning, the models of privatization in the CEE countries are determined as decentralized, as compared with that of the Federal Republic.

*Only Germany has adopted a fully centralized model of privatization and has built an institutional infrastructure adequate for this approach. This has been prompted both by the will, and the resources, including financial ones, for fast implementation of the privatization process. In fact it is not a matter of privatization so much as of digesting, absorbing and transforming the economy of former East Germany by the FRG. The only privatizing body in Germany is the Treuhandanstalt Trust Agency (THA). This organization is entrusted not only with the denationalization of state assets but also with the management of all state-owned enterprises in the former GDR. In practice, the THA is assigned a property title and the rights resulting from it in the respective enterprises. At the beginning 8,000 enterprises with over four million employees, and 15 million real estate entities were governed by the Treuhandanstalt. It is hardly known that the THA was created as early as 1st March, 1990 at the time of the still existing GDR by the government of Modrov with the function of "management of the people's property for the benefit of society". In the process of negotiations for the unification of the two German states one of the important requirements of Bon was that THA activities focus on the privatization of these enterprises.*

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*On 17th June, 1990 a special law was adopted regulating the goals and activities of the THA: – Privatization and utilization of the national property in compliance with the principles of social market economy; – Structural adjustment of the economy to market requirements, development of the companies subject to recovery until they achieve competitiveness; – Decentralization; – Provision of credits under the state agreement for unification. The law specifies that the THA should implement its operations in a decentralized manner by the joint stock companies created for this particular purpose. Since THA's establishment all management teams faced the dilemma whether its activities should be organized as those of a private enterprise, whose main purpose is maximizing profits or it should emphasize the policy of restructuring, i.e. to assist the enterprises increase their competitiveness while retaining as many workers as possible. In August 1990 a new statute of the THA company was developed, which except for some modifications was unchanged till the completion of the process. By virtue of this statute the organization structure and the activities of THA should serve three practical purposes: recovery, liquidation and provision of financing for the enterprises. In accordance with the Unification Treaty of August 30th TREUHANDASTALT was proclaimed "a legal federal institution of public law" and is subordinated to the Federal Ministry of Finance. It mobilizes teams of bankers and managers from the FRG. The THA itself is organized as the headquarters, employing 75% of personnel with 15 regional branches, located in and responsible for each of the new federal provinces. A decision is made to drop the practice of individual negotiations with each separate enterprise.*

- The privatization bodies have at their disposal a large number of privatization schemes. Pure market mechanisms (including the sale of shares at the stock exchange) and others, such as the distribution of free-of charge preferential shares or different combinations of these are very frequent.

*Depending on the privatization strategy chosen by decision-makers in Bulgaria at different stages of the process, different privatization approaches (market or non-market ones) or a combination of them have been implemented such as:*

*– Direct cash sales through negotiations with potential buyers, through blind auctions or tenders; – Management Employee Companies (MEC); – Industrial "pool" privatization (sale of a group of enterprises by privatization intermediaries); – Voucher-type privatization; – Public offering of stocks at the stock exchange.*

- The Privatization Agency was established and started functioning during the process. Under its competence lies the privatization of the largest group of enterprises. It develops the programmes and implements the so-called cash privatization (sales for cash or other payment instruments, but not for vouchers used in the voucher privatization). The Privatization Agency is directly subordinated to the Council of Ministers. The voucher privatization is carried out under programmes developed by the Center for Mass (Voucher) Privatization, which are also approved by the Council of Ministers.
- The Agency of Post-privatization Control (APC) was created. It monitors the execution of the privatization agreements, establishes violation of the Privatization

Act or the fulfillment of the obligations under the privatization agreement itself. It is extremely difficult to terminate privatization deals. In order to terminate a privatization deal, the court has to order the buyers to return the shares, which they have acquired under the privatization contract. The real obstacle to terminating privatization deals comes from the changes made in the legal status of the privatized enterprises, due for instance to the increase in capital, or the attracting new shareholders, etc. It is disputable whether such changes could imply that since the company has changed its legal status it no longer bears responsibility for its previous obligation. In case of disadvantageous privatization deals, when a violation of the law is established, the persons in charge, responsible for the violation of the law, should be made accountable for it. (personal liability of both the officials acting as buyers and those acting as sellers).

## Stages in the Privatization Process in Bulgaria

The process of privatization in Bulgaria can be divided into three stages. The first stage, which started in the early 90-ies is characterized by chaos of thought and ineptitude of action. This is the period when the Privatization Act was adopted and the basic concepts about approaching the problem of denationalization were confronted. The time was rife with disputes about which model to choose, whether to adopt "shock" therapy or, on the contrary, to adopt a gradual transformation to private ownership. There were few real transactions.

In the following period (1993-1994) privatization actually came to a standstill<sup>27</sup>, and then within two years time (1995-1996) the basic concepts of voucher privatization were implemented during the second Cabinet of the socialists.

*The debates about the types of voucher privatization started during government of Lyuben Berov (1992-1994). There were two opposing groups - the circle around Deputy Prime Minister Karabashev, who were for Polish type voucher privatization implemented by privatization funds created by the state, and the circle around Prime Minister Lyuben Berov, who were for free sale of vouchers, issued by the state. In fact, the voucher privatization in Bulgaria was implemented by privatization funds created outside the state. Approximately 15% of the state assets were denationalized through voucher privatization. Despite this its effects are not considered quite positive. Firstly, voucher privatization did not have the initially proclaimed social effect, namely allocation of state property among those who have created it. The method of voucher privatization, which was applied in Bulgaria did not assist the emergence of real owners of the privatized enterprises, the notion of "ownership" was even blurred mostly due to the disproportion in the rights, obligations and responsibilities among the participants in the voucher privatization process.* continued >>

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<sup>27</sup> The periods of the process of privatization in Bulgaria have been defined on the basis of the analysis of the results of an empirical sociological survey carried out under the project Privatization, Social Policy and Social Dialogue. The people questioned for the purposes of the sociological survey pointed out different years but all of years are around the middle 90s.

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*"Minor shareholders" in practice could not make use of their property rights because of the unlimited power of action of the privatization funds' managers. The political effect of implementing the voucher privatization, namely mobilizing the electorate in support of the government policy and strategies was effective only in a short-term perspective. In the medium and long-term perspective the process resulted in a mass disappointment with denationalization and transition in general, and intensified the public suspicion towards each privatization deal and last but not least, predetermined the fall of the government who dared to implement it. The economic effect from the voucher privatization is even more dubious. The 15% share of state assets denationalized through the voucher privatization seems quite insignificant compared to the real privatization wave carried out in the period 1997-1999.*

The third stage of privatization falls in the period 1997-1999<sup>28</sup>. After 1999 it was only the so-called natural monopolies that remained, and privatization practically came to a standstill, firstly, because of the forthcoming new elections. The second in place but equally important reason is that in the case with the privatization of natural monopolies a crucial task is their demonopolization and restructuring, so that enterprises should not be transformed from a state monopoly into a private monopoly. The act of privatization itself is of lesser importance. The restructuring of enterprises such as Bulgartabac, BTC, etc., is an excruciating and long-lasting process, which requires public trust.

## Basic Privatization Procedures in Bulgaria

The Privatization Act stipulates seven types of privatization procedures:

1. Auction;
2. Competitive tender;
3. Direct negotiations;
4. Public offering of stocks at the stock exchange;
5. Centralized public tender;
6. Sales of up to 20% of the state and municipal enterprises to their employees under preference terms (at 50% discount price);
7. Management and employee buy-out schemes

The different approaches (cash, voucher, pool, management-employee, etc privatizations) in the process of denationalization it is possible to apply a combination of procedures. We can generally speak of "open" and "closed" procedures.<sup>29</sup> By 1998 the Agency of Privatization has implemented 20% of all the deals by an open procedure, and the branch ministries and the municipal authorities – 15% altogether.

<sup>28</sup>The interviewed for the survey unanimously defined this stage of the process as the true privatization in Bulgaria.

<sup>29</sup>Open procedures are auctions and public offering on the stock exchange. Closed procedures are competitive tenders, direct negotiations, and MEBOs without tender or auction.



*The prevailing part of the privatization deals in Bulgaria - 55.76% have applied the negotiation-with-potential-buyers method. 31.73% of the deals have applied the competitive tenders. Auctions have been used for the sale of 11.35% of the enterprises. Only 1.16% of the deals were carried out at the stock exchange. In only 3.32% of the privatization deals in Bulgaria there has been foreign investor participation.*

## Results of the Privatization in Bulgaria

As a result of the efforts made for restructuring and further liberalization of the economy by privatization, a considerable part of the state property passed into private hands. The 4,826 privatization deals made, include 2,631 sales of whole enterprises, and 2,195 sales of separate parts of the commercial companies.

By June 30th 2002 52.7 % of the assets of the state-owned enterprises had been denationalized, which accounts for 79.8 % of state-owned assets designated for denationalization.<sup>30</sup> 157 deals with foreign investors have been closed which bring the greatest contribution to the financial results. The sale of the large enterprises in the major industries of the economy (chemical industry, metallurgy, military defense complex, machine-building) has almost been completed. What is still to be denationalized are those enterprises, which till recently occupied dominating positions in infrastructure sector – the energy sector, the telecommunications and railway transport.

Recently the strategies for selling the Bulgartabac and the BTC holdings were approved by the Council of Ministers and the National Assembly, which will bring an impetus to these particularly important privatization procedures.

Up to 80 % of Bulgartabac stocks were offered for privatization through a two-stage advertised competitive tender. The deadline for submitting the tenders was scheduled for the beginning of May 2002. The accepted tenders were considered and a reported by the committee. After some clarification the finalized tenders of the potential buyers were considered. Up to 65 % of BTC was offered for privatization, by a two-stage advertised competitive tender. The deadline for submitting the indicative tenders was June 10th 2002. The accepted tenders were considered, and then some of the potential buyers brought it to court.

According to the Privatization Agency (PA) reports and statements the total revenues from privatization of state-owned enterprises for the period January 1st 1993 - December 31st 2001 amount to BGN 3, 487, 724, 000 and only BGN 1, 752, 498, 000 of which are in cash.

The total volume of direct foreign investments for the transition period (1992-2001) amounts to USD 4,494 million, USD 1,448 million of which have been made through privatization (32%). The remaining part has been made as green-field (in new enterprises) investments and investments in enterprises with

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<sup>30</sup>By way of illustration it must be pointed out that in 1990 the total value of the assets of state-owned companies was USD 20-30 billion.

foreign participation (USD 3,046 million).

*The overall financial result of the concluded privatization contracts by all the privatization bodies under Article 3 of the Privatization Act - the Privatization Agency, the ministries, the municipal privatization agencies for the period January 1st, 1993. - January 31st, 2002, amounts to BGN 10.840 billion, accounted for as follows: - BGN 5.107 billion agreed investments; - BGN 4.5 billion agreed payments; - BGN 1.223 billion taken debts, BGN 10.2 million of which have already been paid.*

The results of the privatization include the liabilities assumed by the new owners of the enterprises. In total they amount to BGN 1.2 billion. Up to the end of 2001 only 0.83% in BGN and 10.2% in USD of the assumed liabilities have been liquidated. Outstanding penalty payments under privatization contracts for the period 1993-2001 amount to BGN 20 million and USD 43 million. In fact, less than 0.5% of the liabilities have been paid, which give us grounds to consider that in practice, the state does not exercise efficient post-privatization control.

## The Future of Privatization in Bulgaria

"Accelerated rate of privatization of all state assets designated for denationalization, restructuring and liberalization of the natural monopolies" are the major strategic priorities of the Government of the National Movement Simeon II. For this reason in the period 2001-2002 were developed and adopted new Privatization Policy and Development Programme for 2002, a new organization of the process and an entirely new Privatization Act was passed.

**The new privatization policy** is focused at increasing the revenues from privatization and at attracting leading foreign companies. Complete transparency, public control and conditions curbing corruption opportunities are the important aspects of the new privatization policy. The development and compliance with clear selection criteria and equal treatment for all investors in the preparations and conclusion of privatization deals is particularly important for the implementation of privatization.

The programme stipulates public announcement of the selection criteria for each auction or competitive tender procedures and of the basic parameters of the submitted tenders. Provision of publicity and enhanced control on execution of already assumed obligations is another aspect of the denationalization policies. Efficient mechanisms should be established for imposing penalties and compensations in cases of failure to fulfill obligations under the privatization contracts.

**The new organization of the process** requires that only the Privatization Agency shall perform the functions of an intermediary in effecting sales. The branch ministries remain the principal of the enterprise designated for privatization. Inter-institutional working groups will be organized of representatives of the branch ministries and the Privatization Agency who shall develop the sale strate-

gies from companies from the infrastructure and major industrial sectors. The strategies are subject to approval by the Council of Ministers, and in particularly significant cases – by the National Assembly. The Privatization Agency shall play a leading role in the project coordination and implementation. The programme stipulates attracting foreign consultants with international experience for development of the projects and marketing of the enterprises of particular importance for the economy.

**The new Privatization Act** stipulates the following major changes in the regulation of the process. The enterprises, not yet privatized shall be considered advertised for privatization, giving priority to deals where investment interest has been declared. All sales activities are performed by the Privatization Agency. All previously existing preferences are not to be applied in concluding privatization deals.

Further the text attempts at introducing some of the main tasks related to the process of privatization and post-privatization control, which is to be implemented.

## **Restructuring and Privatization of Infrastructure Monopolies**

The restructuring and privatization of parts of the infrastructure monopolies remains a central task in the future. In 2002 preparations are to be made for the sale of thermal and water power stations,

the electricity distribution companies, the companies of the nuclear power station Kozloduy, enterprises providing supporting or complementary services in coal-mining, thermal and water driven electric stations.

The sale of coal mines and of central heating stations is in progress. The privatization of special operation and production capacities from the Bulgarian Railways structure will continue. The sale of the BTC is to be concluded.

## **Fast Sales of Still Not Privatized State-owned Enterprises**

The privatization of the Bulgartabac Holding and the Balkancar Holding the remaining still non-privatized large enterprises in the industrial, transport, trade and services sectors are another important aspect of the future privatization in Bulgaria.

349 sales have been planned, including 238 majority shares and share packages of enterprises, 21 minority packages and 90 parts of enterprises. The sale of 489 remaining and preferential packages from already concluded deals will be implemented, chiefly on the stock exchange.

## **Acceleration of the Privatization Process in the Conditions of Improved Transparency of Privatization Procedures**

The use of methods for privatization such as auctions and competitive tenders will create conditions for accelerating the process and will provide for a greater transparency selecting the buyers.

One of the unsolved problems is the sale of packages of shares, remaining from already concluded privatization deals for the purchase of major share packages of the enterprises. Restitution claims on certain industrial enterprises by their former owners will have to be settled in the forthcoming period. Therefore, special attention is to be paid to marketing and attracting foreign investor interests to the enterprises advertised for privatization.

### **Restrictions for the Privatization in 2002**

The number of companies excluded from privatization is very small. The list includes the water supply and sewage enterprises, airports and seaports, the national electricity infrastructure network, the railways maintenance company, and some specialized hospitals and clinics.

# SOCIAL POLICY AND SOCIAL DIALOGUE IN THE CONDITIONS OF ECONOMY AND SOCIETY IN TRANSITION

## Social Policy

Privatization in Bulgaria is defined as a political process, which changes intrinsically not only the type of the economic relations, but also of the labour relations. The faster the privatization guarantees a less painful process, but on the other hand it shortens the time for adaptation of the social partners to the new situation. According to the social partners, in the years of reform it is not only the social dialogue that is evolving but also their initial positions. Thus, for example, the issues of social policy and the topics of social dialogue in the post-privatization period are intrinsically different from those, which were prevalent during the process of denationalization.

The concept of social policy is to be interpreted within the broader conceptual approach of the social risk management in the countries in transition<sup>31</sup>. In the context of this approach the social policy is a combination of legislative and regulative rules and institutional mechanisms and structures (forms, institutions) by which the state is trying to decrease the effect of social cataclysms at least in the following three areas:

- **In respect of the labour market** – by a policy towards diminishing the risk for workers and easing social tension by promoting the establishment of flexible formal (official) labour market; a policy towards remuneration for labour productivity and ensuring income distribution; diverse measures for retaining the employ-

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<sup>31</sup>Holzmann/Jorgensen, 1999. Social Protection as Social Risk Management: Conceptual Underpinnings for the Social Protection Sector Strategy Paper. Social Protection Discussion Paper N 9904. World Bank. Washington, D.C.

ment for the workers; regulation of other components of the employment process besides remuneration, such as labour condition, workplace, working hours, etc.

- **In respect of pension schemes and social security schemes** – including regulations on the economic acceptability of unemployment insurance
- **In respect of social assistance** – including all kinds of social benefits (the work incentives integrated into the remuneration system), in-kind benefits, other social payments and aid.

## Social Dialogue

Simultaneously with the progress of transition, the development of the Bulgarian model of tripartite cooperation and social dialogue steered its complicated and difficult course.

One of the achievements of the Bulgarian democratic development unequivocally was the transition from centralized industrial relations, predetermined by the state, to the variety, controversy and the greater freedom of industrial relations in the conditions of a market economy.

One of the most important results of this transformation is the formation of the principles of the modern social dialogue and their development and introduction into the society.

The objectivity of the analysis requires examination of the environment in which the Bulgarian institutions and the potential of social dialogue were established and developed.

- Drastic financial and budget restrictions, which created extreme difficulties for all the budget spheres, and particularly for the education, the healthcare, municipal authorities, etc.
- Strong negative impact of the accrued foreign debt on the social sphere;
- Several successive cycles of economic recession which led to the lowest drop in GDP compared with all the other CEE countries;
- Delayed implementation of privatization and structural reforms, which increased the financial and social price of transition;
- Continuous, often hesitant and inconsistent changes in the legal regulations of industrial relations;
- Indecisiveness and continuous procrastination of the changes to be made to the outdated pension system characterized by an inappropriately easy access to the system and therefore impossible to support;
- The growing unemployment rate, resulting from privatization, restructuring and financial restrictions, extremely high even for Eastern Europe;
- Implementation of a radical reform in the whole social sphere, which led to the formation of a new national social model, and all that in the conditions of long-lasting and high rate of unemployment;

- Drastic drop in the standard of living and the quality of life of large groups of the population;
- Political instability and frequent changes of governments in the period up to 1997;
- Dynamic implementation of the constitutional right of association and forming a pluralistic labour union environment, characterized by a multitude of labour unions and numerous national labour union headquarters;
- Slower (compared with the labour unions) institutionalization and development of a mechanism of employer structures into a pluralistic employer environment;
- Radically changing public attitudes and clearly marked generation differences in the views of and adjustment to social developments;
- The influence of a large number of international and regional foreign economic and political factors;
- The increased significance of the support and the impact of the international financial institutions on the formation of the social model;
- The formation of a firm and lasting social consensus on Bulgaria's NATO and the European Union membership.

In this complicated and constantly changing (sometimes at revolutionary rate) context, the social dialogue and the tripartite bargaining system was developing under the continuous impact of the following factors:

- a. The transformation of the state sector into a private sector;
- b. Increasing freedom for commercial and industrial activities;
- c. Change in the ruling principle in the economy – from centralized planned economy to a market economy and free competition;
- d. Change in the principles of management of the economy as a whole and the enterprises in particular;
- e. Changes in the base of the legal framework and of the institutions on the labour market and changes from the general situation of full employment to the conditions of continuous unemployment;

In compliance with the latest change in the Bulgarian Labour Code (since March 2001), introduced due to the active and equal participation of the employers, the labour unions and the Government), the social dialogue is an instrument through which the state regulates the labour relations and other relations immediately directly related to them, the social security relations and issues related to the living standards, after consulting these issues with workers and other employees, the employers and their organizations. The social dialogue is a mechanism of cooperation, coordination and recognition of the interests of the major social groups. The social dialogue on the national level is implemented in the tripartite cooperation bodies (namely, the National Council for Tripartite Cooperation), which is comprised of the representative organizations of the workers and other employees, and of the employers. Apart from the National Council for Tripartite cooperation there exist also councils for tripartite cooperation of separate industries, branches or municipalities.

In addition to the mechanism for tripartite bargaining system, the social dialogue is realized within the enterprises by the employees' participation in the management of the company, in the preparation and discussion of some important matters of in-house organization of production operations, social security and labour problems as well as by means of the collective labour contract (CLC).

## **Strengths and Weaknesses of the Bulgarian Model for Social Dialogue**

The development of social partnership by means of different institutions and mechanisms, one way or another brings about the involvement of a larger number of people in the formation and implementation of the economic and social policies and the decision-making process related to them. Social partnership is auspicious for the development of civil society and democracy. The latter fact and the above-mentioned processes for mitigation of the social consequences from the reforms are prerequisites for seeking patterns for extending the range of social dialogue, by including in it aspects of economic and social policies.

The main conclusions on the efficacy of social dialogue, shared by the representative organizations of the employers and of the labour unions can be formulated in the following way:

1. The analysis of the institutions activities and the mechanisms of social partnership show that the development of social dialogue in all its forms is directly determined by the willingness of the social partners and the priority, which they assign to the process of partnership. Despite the social dialogue efficiency dependence on a number of objective factors – economic, social or others, it is the attitude of the separate subjects participating in the dialogue and the state institutions in particular, that play the leading role for achieving good results.
2. The representation functions of the trade unions and of the employer organizations do not find a common ground, especially when the matters discussed concern activities financed by the budget. The objective reason arises from the small representation range of the employers' chambers and unions and the small range of membership interests that they defend. The fundamental variance of interests because of the small scope of employer structures, in practice, leads to modifying the cooperation into a bipartite one – between the state and the labour unions.
3. The tripartite cooperation on sector/industry, branch level or municipality is in general unsatisfactory, incidental and unorganized due to the impact of different objective and subjective factors. The problem of equal representation and participation of the branch ministries and the employer organizations is still to be solved even only because of the absence of branch formations in all the nationally represented employer organizations. The tripartite cooperation in the municipalities has come to a standstill for the past years, which is difficult to overcome, mostly due to the different views of local authorities in different areas.
4. The lessons from the analysis of the institutions for social dialogue definitely point that the regulations and the rules are of fundamental importance for the effi-



ciency and reliability of social dialogue. The clearer and more precise the regulations for structuring and functioning of the dialogue institutions, the more efficient results may be expected. Moreover, when the principle of tripartite cooperation for structuring the bodies for dialogue is distorted, violated or ignored, the quality of the dialogue, is in general inferior and the participants are discouraged to take responsibilities or observe discipline in the dialogue or their actions.

- 5 A common deficiency in all institutions and forms of cooperation is the absence of tradition for provision of complete and objective information to the public on the progress of negotiations, the differences on the discussed issues, the arising critical issues and the alternatives suggested by the parties in their search for consensus.
6. The activities of a considerable part of the institutions for social partnership, especially the classical ones and the specialized tripartite institutions are not efficient enough as far as implementation of the taken decisions. The major reasons lie in the impossibility to meet all the demands of the social partners due to objective economic conditions, while at times – it comes from the reluctance of state institutions to take into account the will of the social partners.
7. There is no efficient control on the implementation of the endorsed solutions reporting on and assessment of the activities of the dialogue institutions, and no joint activities for enhancing the efficiency of tripartite cooperation are undertaken.
8. The assessment of the activities of the various institutions and mechanisms of social dialogue at different stages in the past 12 years gives grounds for the conclusion that the implementation of economic or social reforms is directly related to the development of social partnership. As a rule, governments, who have had the will to carry out reforms and have sought public support for it, have contributed to the development of social dialogue. On the contrary, in periods of "freezing" or restricting the institutions and mechanisms of social partnership, reforms have either failed or have not started at all (for instance 1992, 1994, 1995).

## **Social Partners in Bulgaria**

The participants in the social dialogue in Bulgaria are the representatives of the state, the organizations of the employees and those of the employers. An important characteristic of the organization of labour and capital is their representation. The nationally recognized representative organizations of employees are organizations, which have:

1. Over 50 thousand members;
2. Over 50 organizations of over 5 members in more than half of the industries, defined in accordance with the National Branch Classification;
3. Local bodies in more than half of the municipalities in the country and a national governing body;

4. Legal person status.

The nationally recognized representative organizations of employers are organizations, which have:

1. Over 500 members, each of them with at least 20 employees;
2. Organizations with over 10 members in more than one fifth of the industries, defined in accordance with the National Branch Classification;
3. Members in over one fifth of the branches, defined in accordance with the National Branch Classification;
4. Local bodies in over one fifth of the municipalities in the country and a national governing body;
5. Legal person status.

The representative labour union organizations in Bulgaria are the CITUB (Confederation of the Independent Trade Unions in Bulgaria), the Confederation of Labour Podkrepa (CL), and representative employer unions are BIA (Bulgarian Industrial Association), BCCI (Bulgarian Chamber of Commerce and Industry), UPEE (Union for Private Economic Enterprise), and the Vazrazhdane Union.

# **THE LESSONS OF PRIVATIZATION: SOCIAL POLICY AND SOCIAL DIALOGUE IN THE PRIVATIZED ENTERPRISES IN BULGARIA**

## **The Philosophies of Privatization**

### **Privatization in Bulgaria: Fast vs. Gradual**

Most often responsible people at high levels of state administration consider the implementation of privatization in Bulgaria as a success, to be compared with only a few other achievements of the transition period. The main reason for this achievement is the strong political will which did not remain only a text in the programme documents. As it was already stressed in this report the actual privatization was implemented in the period 1997-1999. The main reason for the possibility to implement "the large scale privatization" within such a short period is the strong political will which was not only part of the programme documents but materialized in the three-year persistent work on the technical implementation of the process. In spite of the positive assessment of the results achieved in that period given by Bulgarian and foreign experts, some mistakes have been admitted, such as corruption, not selecting the most adequate buyer, poor media policy, the particularly negative public attitude to the denationalization of state assets, the growing social tension, the increase of unemployment resulting from privatization, etc. Experts are unanimous that the major reason for the accumulation of all these negative effects is the delay in privatization, in comparison with the other former socialist countries. As a result of the late start of the actual privatization, the restructuring of enterprises was delayed and their state

and condition deteriorated. The social effect of these developments was extremely unfavorable and adverse. As the Bulgarian experience has shown the delay in denationalization of state assets and the late start of the privatization process in general can be compensated only by "privatization for privatization's sake".<sup>32</sup> The execution of denationalization of state assets in similar circumstances inevitably affects adversely the quality of privatization.

"The delay of the process has led to decapitalization, plundering and draining of a large number of enterprises. We had to sell what was left because the state was no longer able to cope with it. It was no longer possible to make attempts at hidden state subsidizing by remitting debts, or failing to take into account cases of insolvency, because the state was in no condition to afford it. So we were in a hurry to privatize enterprises, which five or six years earlier might have attracted greater interest while in 1997 we were happy if we could ever find a candidate to purchase them. On the other hand, the collapse of the old system within the Council for Mutual Economic Assistance as well as that of the Bulgarian economy required finding new and motivated subjects within the overall economy, at that, having the inherent will to restructure the economy. As there no longer existed the opportunity to sell low quality goods on the Council for Mutual Economic Assistance market we had no other resort but to enter the European and the world markets with competitive products, and that could only have been achieved through serious investments in the enterprises, which the state was incapable to afford." (BG-PH-1:3).

## **Privatization in Bulgaria: Political vs. Economic**

Privatization is part of the political process in the time of transition. It is viewed by the representatives of the political class as an instrument for solving major governance problems – in the economic, social, or quite often political areas, or

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<sup>32</sup> In 1997 the government of UDF undertook the implementation of accelerated privatization since it was considered as the main instrument of solving several pressing problems. In the first place, the state in transition during that period lacked financial resources as well as mechanisms (after the introduction of the Currency Board) to subsidize the loss-generating state-owned enterprises. The dominant political belief was that the change in ownership would stop the plundering of state-owned enterprises, and thus, stop the plundering of the economy. Privatization was a way to implement the (liberal) belief of the Cabinet that anyone else is a better owner and manager than the state. According to the political doctrine of the Government of that period – the privatization will increase the competitiveness of the Bulgarian economy, which urgently needed reorientation to new markets. Another reason to privatize "at all costs" was the necessity for modernization, technological upgrading and organizational restructuring particularly in the industrial area. Privatization had become a must for the successful implementation of reforms and its postponement was no longer possible.

even party problems. Only in the cases when it is recognized as an inherent, inseparable part of the overall comprehensive policy of reforms, and not as an end in itself, it is possible to achieve the objectives of denationalization of state assets. The experience of privatization in Bulgaria gives us grounds to conclude that such a large-scale project is more likely to be executed successfully by a government with a rather right-wing political orientation.

The sociological survey carried out for the purpose of this research shows that the main factors which have affected the selection of privatization strategy do actually come down to the presence or lack of political will and orientation towards denationalization of state assets and the willingness of the ruling political power to take the responsibility of executing the process. Although this conclusion does not contradict the theoretical concepts of the nature of the privatization process in the East European countries, its empirical confirmation in Bulgaria requires an additional analysis. In our opinion, the fact that political expedience was pointed out as the basic factor determining the start and the developments of the privatization process in Bulgaria is the other reason (besides the delay and the lagging behind in comparison with the other CEE countries) for the low quality of the denationalization of state assets in Bulgaria. The political meaning of privatization as a process should not be conveniently used to replace its main goals and purposes with consideration for political expedience. In case this is done for too long, the state-owned enterprises run the risk of being led to collapse completely and reach a state from which they would not be able to build efficient corporate governance structures even after privatization. The Bulgarian experience in privatization has proven the immaturity of another initially popular idea that the denationalization of state assets, namely, that restructuring of state-owned enterprises is possible even before, respectively, independent of their privatization. This kind of view in the conditions of lack of moneyed domestic investors resulted in the drainage and plunder of the assets of state-owned enterprises.

The survey pointed out to an opinion that the regulatory basis and the institutional infrastructure should be developed and accomplished simultaneously with the privatization and not before it, not the way it happened in Bulgaria. This view is debatable, since the positive and negative experience gained during the privatization in the East European countries has already formed solid grounds which provide for initial orientation in the case of the process started now – 12 years later. The necessary minimum for starting the process requires constituting a privatization body and adopting a privatization law. No precious time should be wasted in endless discussions on the privatization programme or the development of the legal regulations. The study indicated the need for privatization law amendments in the course of the privatization, in order to provide for timely updates and amendments, which reflect the experience gained in the process.

"It is difficult to start privatization without any rules at all. That will result in plundering. Otherwise, I have already pointed out that it is temporary legislature, it is emergency legislature. It is, therefore, pointless to

elaborate it to perfection. There is always the danger of not starting privatization at all because you always have something to improve." (BG-PH-1:7).

At the same time the changes and the externalization of the experience from the practical implementation of denationalization of state assets should neither be of the kind and number to cause chaos in the legislative and regulatory framework, nor allow unequivocal interpretation of the rights, obligations and liabilities.

"Privatization requires a clear political programme, clear political commitment. What do we want to achieve? Shall we simply privatize fast? Is it a matter of privatization for privatization's sake so that the state is no longer the owner? We have to privatize, but we have to solve our political problems by one deal ... Basically a political strategy is required, approved by the National Assembly. That way, the law shall regulate the minimum required procedures, so that officials will not be able to find gaps..." (BG-PH-2:14).

We should take into account the fact that at the start of privatization there was no practical experience and not enough competent experts. All the participants "were learning privatization" in the course of the process itself. The clear points about the positive effects, expected results and the negative effects of denationalization of state assets were very few.

"...nothing was clear. Now when we are making a postmortem it is very easy to classify everything. Nothing was easy. There were only certain good ideas and our foreign partners who admired us..." (BG-PH-2:14).

## **Privatization in Bulgaria: Economic vs. Social**

As it is universally recognized "privatization is a political process. It is carried out by the state. For that reason the state cannot abdicate its social functions in the course of privatization. There are types and variants of superiority of the social aspect over privatization..."(BG-PH-1:8). Confrontation of the economic and social aspect of the process is typical of the Bulgarian privatization. This is appropriately illustrated by the manner of selecting and determining the privatization procedures and approaches in Bulgaria. Among the ideologists of privatization in Bulgaria there is no one opinion about which privatization procedure has proved to be the most efficient. The survey has indicated that each privatization deal is a singular case having its peculiarities. Despite the common negative attitude towards the negotiations with a potential buyer, this procedure is classified as successful for a large part of the privatization deals. Privatization deals are particularly attractive when the buyer makes a commitment to take some social obligations. All the deals given as an example of successful privatization have been made by negotiations with a potential buyer. Among those we can list Umicor-Pirdop, Solvay – Sodi, Sopharma, Devnya, Baalkanpharma, Bulbank. At the same time, the same procedure was applied in the privatization of the biggest failures, such as: Balkan Airlines Company, Kremikovtzi, Chimco-Vratza, Plama-Pleven, etc. The nature of the privatization procedure determines the good fortune or the failure in the future

development of the company as far as it is related to the economic risk and the transactional costs for acquiring the property rights. If the economic risk is low or none, we should not expect positive results of the development of the enterprise. Good examples in this respect are Kremikovtsi and Chimco-Vratza. This inference needs supporting evidence, which could be provided by a concrete empirical sociological survey of a larger range of enterprises. In the case of delayed privatization, like the Bulgarian one, a driving motive of denationalization of state assets is the speed and for that reason the profile of the future owner comes second.

"The aim is transfer of property rights and privatization is a political process. It is not a deal from which the state can make a profit. The speed matters most and the chance of finding the right new owner..." (BG-PH-1:6).

To what extent the Bulgarian privatization process is socially committed is evident chiefly in the negotiations with potential buyers. The procedure has been used chiefly for privatization of oversized "mammoth" companies, where the number of employees exceeds many times the required number. In the case of an enterprise on such a large scale the privatization procedure itself becomes one of the few vents for "blowing out" social tension. Even after the first year of the start of the privatization process it was obvious that the social commitments in the privatization contracts were impossible to fulfill so in the majority of cases the Privatization Agency agreed by annexes to lessen the burden of social commitments. By this method the state cleverly shifted the redundancy problem onto the labour unions and the new owner. Meanwhile, we have to make clear that the state finds indirect ways of supporting already privatized enterprises where social tension is rising, for instance, by obligating the other non-privatized monopolies such as NEC, Bulgargas, etc. as well as state institutions like NSSI to reschedule the enterprises' debts. This is a practice, which is still going on at the moment. This practice is the reason not only for sharp criticism on the part of the international institutions, which are financing numerous programmes related to the reforms but it also has a dubious social effect. Since similar measures are not always part of a comprehensive recovery plan for a particular privatized enterprise, but aim at smothering the social tension in a specific situation, the logics of this type of decision-making seems unclear and violates market principles. By shifting the liabilities of otherwise private subjects onto the taxpayers the state most often only postpones the liquidation of specific privatized enterprises and creates auspicious conditions for unscrupulous owners to continue the "draining" of the enterprise assets. Typical examples in this respect are the cases with Chimco-Vratza and Plama-Pleven.

In theory, privatization methods of prevalingly non-market procedures, such as the voucher privatization and the management-employee buyout schemes are considered to apply the social aspects of denationalization of state assets. As a rule, these methods are supposed to compensate the broad social circles for the replacement of one legal order of property rights with the new one, which is market-oriented and market-based. In the course of this transformation large masses of the population found themselves to be in a losing position. The voucher privatization

had two objectives – on the one hand it aimed literally to compensate the population and on the other hand it could achieve short-term mobilization of the electorate for the policy of reforms. As has already been mentioned in a long-term perspective these effects do not matter at all, they even start working against the "reputation" of the privatization process and the subjects implementing it (the political forces or the concrete persons). The history of voucher privatization in Bulgaria deserves a special analysis, which is impossible within the volume of this report. Within the limits of this report we will only point out that voucher privatization in Bulgaria did not fulfill any of the initially declared purposes – in some enterprises the voucher privatization even failed to allow the state quit its property rights and withdraw from the management.

Because of the peculiarities of the method which was used in Bulgaria and the constraints on the amount of property that could be acquired (up to 33% of the capital of the company) by the specific leading actors in the process – the privatization funds by virtue of a decree of the Council of Ministers – some hybrid structures of ownership emerged, which in most cases were an obstacle to the functioning, management and the positive developments of the enterprises. The situation could not be more ridiculous when the state figured as an owner of the semi or fully privatized enterprises together with the other owners, chiefly the privatization funds and at the same time insisted on being treated as a privileged shareholder entitled to preferences in distributing the profits of the company, for instance. Leaving aside the non-market behaviour of the state in the process, which could be a consequence of the specific method of voucher privatization applied in Bulgaria, we have to point out that problems similar to the above when there were no "real owners" after the voucher privatization of enterprises, the unlimited freedom of action of the governing bodies of the privatization funds and the ineptitude to protect the rights of the so called "minority/small shareholders" legally and institutionally, brings into question the initially declared good intentions.

The privatization by management-employee companies (MEC) is the most controversial method in the Bulgaria public life. In 30.73% of the deals in Bulgaria the buyers were MEC and for the period 1997-2000 more than half of the enterprises were privatized through this method. Since through this method of privatization the buyers – MEC – are allowed to pay the price of the company in installments (usually for a period of 10 years), and there is no requirement for their financial stability, and only done based on the argument that these are managers, workers and other employees of the respective enterprise, the privatization had an exceptionally low economic effect. We have to point out further that the enterprises sold to MEC in most cases did not increase their efficiency, did not improve their corporate governance and did not lead to increase in employment. The explanation of this situation must be sought in the specifics of the implementation of this method in Bulgaria. In practice, the management of the enterprises privatized through MEC are not responsible for the state and the functioning of the company since they do not participate with their own capital, they simply pay the deposit on



the price, most often using a bank loan, and they are allowed to pay the remaining part in installments for quite a long period of time.

Since MEC are entitled to property rights after the final settlement of the deal, in practice the management acts as a management company of otherwise state-owned property. With this scheme, the only concern of the management remains the rescheduling of the installments on the agreed price of the enterprise for as long period as possible.

As for market procedures such as auctions and competitive tenders, they are considered adequate for the sale of small enterprises where no social commitments on the part of the buyer are sought. Procedures are fast and favour the highest bid.

## **Social Partners and Privatization**

### **The Employers**

In their opinion about privatization, as well as in defining the main factors which affect the process, the representatives of the employer organizations to a great extent converge in views with the subjects implementing the denationalization of state assets. It is hardly surprising, having in mind that it is the employers who benefited mostly from the transfer of property rights. In general, their main criticism is targeted at the way in which privatization has been carried out. Their objections concern the quality of the privatization process, the absence of transparency in many of the deals and the late start of the denationalization of state assets in Bulgaria.

"Their (*of the enterprises*) economic condition deteriorated greatly as a result of the delay in the first years. The moment privatization was declared, the draining of enterprises at the input and the output points started. None of the state-appointed directors of these enterprises knew what was in store for them, so in general they tried to derive maximum benefits for themselves before the enterprise was privatized. What is more, the ruling political forces appointed directors of enterprises who were persons close to them, and their purpose was now on the one hand to finance the political forces from the state-owned enterprises funds, and on the other hand, during the privatization itself to profit from the opportunities provided by the MEC" (BG-I-4:19).

The above statements are indicative of an appeal to the state to show greater concern for the interests of the employers by liberalizing the labour relations and the labour market regulations, which are irrelevant in the new market conditions. As the same time, the employers are quite aware of the state's chiefly social commitments. Both the labour unions and the employers, though to a lesser degree, want to make the state an arbiter of their disputes. For the employers privatization

is a desirable and necessary process. It is believed to be the only way for solving the economic problems of the country. Privatization is considered delayed and for that reason – with high social price.

*A successful privatization procedure for the employers is the negotiations with a potential buyer, but in the case when the buyer develops activities in the privatized enterprise, possesses the necessary financial resources and the willingness to develop the enterprise, but not sell it. The same view is maintained about the management employee buy-out scheme. If the MEC is has access to fresh financial resources, the deal is considered successful.*

Employers are among the few whose opinion about privatization by MEC is different from the commonly shared negative attitude. Nevertheless, employers state:

"(...) Successful privatization procedures were those where no other method of payment was accepted but cash...." (BG-I-5:18).

Their positive attitude towards privatization by management-employee buyout scheme may be due to their interest or biased view of the process of denationalization of state assets. It is a common belief that a large number of fictitious MECs were financed to take part in the privatization solely to take advantage of the financial preferences for the payment of the price given to management employee companies. At the same time it is recognized that the social partners expectations about privatization by management employee buyout scheme were considerable.

"On the whole in many places the labour unions supported the privatization. The reason for that was that privatization was a hope of improving the condition of the enterprise. Chiefly because the process of privatization was delayed, in many of the state-owned enterprises the volume of sales decreased, wages and salaries had not been paid for months, for the simple reason that there was no cash flow in the enterprise. So the hope of the labour unions and the employees was that after the privatization the situation might improve. Great expectations were laid on the management employee buyout scheme because the employees believed that if they were involved in the privatization of the enterprise in some way or another they would be able to exert influence on the future state of the enterprises. Great expectations were laid also on including clauses in the privatization contract for worker retention. In this respect I have a reservation." (BG-I-4:20).

The rise in unemployment as a direct result of privatization is believed to be a natural result, since after the finalizing of the procedure the number of the workers and other employees was required to be optimized. A negative opinion on the social clauses of the privatization contracts became a common belief. The additionally made social commitments became unbearable when external factors made it impossible to realize the enterprise output. According to the representatives of the employer organizations, social policy in the privatized enterprises was difficult to implement because of the inauspicious combination of redundancies after the privatization and the high social insurance burden, which initially was only the employ-

er's responsibility. As a result there was a mass tax evasion of income to avoid high social security contributions. This was the case with the small or medium scale enterprises, which make the majority of enterprises in the country. In the former large state-owned enterprises, where the labour unions had been preserved, a similar situation of concealing incomes is almost impossible. The survey on employers indicated another negative consequence for the social policy of the transition period – the increased number of people who are working without having concluded a labour contract. Although this problem is not a common phenomenon, as it was in the years following 1989 it is an obstacle for the normal functioning and development of the pension and health insurance systems. After the privatization the space for social dialogue contracted naturally. At the same time, employers report that some non-typical issues in the activity of the social partners and especially the labour unions are no longer topical. Before the transfer of property rights the labour union used to have great power, which gave them the right to intervene in situations which did not concern directly the interest of labour. Examples in this respect are the demands of the labour unions for resignation of directors, common at the beginning of the 90-ies, the demand to coordinate each change in the enterprise with the labour unions, etc. The employers maintain the position that the social dialogue after the privatization should be held at the enterprise level, because the problems are there, the people who are familiar with them in detail are there too. Although, social dialogue in Bulgaria has a long history, on a large number of issues the labour unions and the employers hold diametrically opposed views. One of the problems pointed out in connection with the social dialogue is the question of changing its institutional levels. The future of social dialogue is foreseen by the employers at a lower and lower institutional level, as has already been mentioned at enterprise level. Concerning the prospect of social dialogue at branch (industry) level the attitude of the employers is not optimistic. Enterprises in the same industry have different financial resources and therefore, only a small number of them could meet the conditions under the branch collective labour contract. These arguments naturally end up with the conclusion that social dialogue at branch level should narrow its scope. The employers' view that the emphasis in social dialogue should be transferred to the enterprises, finds its logical sequence in their position that the labour unions could play their most essential role in the post-privatization control. The labour unions are those who should signal violations of the contract because they know the company. According to the employers post-privatization control cannot be implemented at national level. The criticism of the employers' representatives is directed towards the behaviour style of the labour unions. According to them the labour unions should take a more active position in the enterprises. They should show initiative and take responsibility regarding the labour organization, health and safety conditions at the workplace. The employer representatives who were interviewed explained the passive behaviour of the labour unions as a result of the employee mentality and routine in the actions of the labour organizations.

The tripartite cooperation is necessary only at national level, because strategic aspects of social policy, which are of overall significance, are discussed there. Bipartism is virtually a fact at enterprise level, because the state is not eligible to take part in the dialogue between the labour unions and the employers, at enterprise level. The basic mechanism of social dialogue in the enterprise and also the main field of activity of the social partners is the collective labour contract.

## **The Labour Unions**

The survey confirmed one of the preliminary hypotheses, according to which the government, the employers and the labour unions support privatization and see in it the only solution to the economic problems of the country. The survey showed that the labour unions were more critical in judging the privatization process. Their opinion about both the implementation of the privatization and its results is more negative than that of the other social partners. The representatives of the labour unions hold the position that a comprehensive strategy of privatization was lacking and unlike the employers and the representatives of the state administration undervalue the fact that a clear philosophy and consistency in the implementation of denationalization of state assets was followed. As a main factor for determining the "strategy" of privatization they point out the conditions imposed on Bulgaria by the international financial institutions as well as the interest (political, corporate, etc) of the ruling circles.

"I know nothing about a comprehensively developed strategy of privatization. An attempt at one was made at the end of the term of office of the previous government by the Privatization Agency, ... , In this sense we can maintain that the factors which affected the privatization "strategy" reflected the necessities of the time in which they were formed. At one stage the main factor was the price of the object of privatization, at a second stage – extras promised as accompanying or following the privatization but in the long run in my opinion, the main factor which prevailed was the speed of privatization and that was determined by the quantitative parameters of privatization imposed by the IMF (BG-I-3:16).

"After the passing of the Transformation and Privatization of State-Owned and Municipal Enterprises Act (May 1992) up to now different approaches, models and strategies for denationalization of state assets have been adopted but there has never been a clear comprehensive state policy. In the years each of the governing cabinets announced its philosophy and aims in privatization underlying the annual programme (of declarative character), and afterwards took a certain legislative form by amendments of the Privatization Act (24 in total number). That led to frequent changes in the privatization strategy" (BG-I-5:23).

The representatives of the labour unions have consolidated around the opinion that the negotiations with a potential buyer are the most adequate procedure in the conditions in Bulgaria. At the same time, they take account of the negative

effects of its implementation. The representatives of the administration as well as the employers and the labour unions maintain that the negotiations with a potential buyer are the best working procedure, which contradicts the common public sentiments. Opinions of the different groups coincide both about the latter procedure and the competitive tenders. As for management-employee buyout scheme the labour unions appreciate it better and think that this procedure was undeservedly criticized. Unanimously, the most important development of social dialogue, as stated, was its contraction at all levels, but chiefly at national level. Its "contraction" is foreseen both within the institutional structure of the dialogue and in respect of the topics and opportunities for discussion. The contraction of the dialogue at national level is a direct consequence of privatization because the representatives of the state in the tripartite council often impose their views by force. At the same time the intermediate level of dialogue (the branch councils) have not been formed completely yet and that way the dialogue is blocked with attempts to transfer it to enterprise level. At the enterprise level the labour unions are very often under pressure by the new owners, who violate the collective labour contract.

It is obvious that the labour unions do not raise the issue of changing the type of dialogue or the topics, i. e. of a qualitative change in the social dialogue as a result of the change in the economic and labour relations in the economy caused by privatization. They do not see in these new developments a qualitative change, but constraints on their work. They take themselves as victims of the process and therefore their position is diametrically opposed to that of the employers.

Privatization has negative consequences not only for the social dialogue but also for the social policy, where their opinion overlaps with that of the other two groups. The main negative consequences have already been mentioned – unemployment, underdeveloped social security and health insurance systems.

The labour unions value highly their own strategy in the privatization process. They not only realized the need for privatization and supported it but also by their expert assistance virtually took part in it. The participation of the social partners in the post-privatization control is considered unsatisfactory.

"The participation of the social partners in the privatization process varies from expert assistance and cooperation in forming the buyer company to severe confrontation (...) At national level a large volume of consultative and intermediary work was carried out by the labour union, in support of the privatizing organs and other state institutions with the privatization of the enterprises under the programme of financial recovery" (BG-I-5:25).

The future of tripartite cooperation is not in question, particularly when it concerns such parameters of national significance as the rate of unemployment, salaries, labour market, etc. At the same time bipartism has a future but at enterprise level. Bipartism is believed to be a consequence of the privatization but is unwelcome and the labour union organizations do not seem to be preparing for it, neither at organizational nor at expert level for the time when this dialogue will get established eventually.

## Social Dialogue and Policies at Company Level

Two general conclusions can be drawn about social dialogue and social policy at company level. Firstly, that the efficiency of social dialogue and social policy does not depend on the privatization procedure but on the size of the enterprise and the profile of the owner. It is not possible to maintain whether a procedure works or not without knowing or having figures of the subsequent economic development of the enterprise. Secondly, the confrontation between the employers and the labour unions at national level leads to severe confrontations and complete disagreement at enterprise level. Solely the fact that it is impossible to work without any dialogue at all encourages the efforts to establish cooperation on social matters. Both parties to the dialogue justify their positions that by their consent to negotiate or engage in a dialogue they are doing a favour to the other.

Positive examples of the efficiency of social dialogue are those in Solvay Devnya, the Odessoss Dockyard in Varna and Metal Standart Ltd in Shoumen.

*Solvay Sodi, Devnya is an example of successful privatization by a strategic investor. The fact that the buyer is in the same line as the main activities of the enterprise are, as well as his motivation, have proved of utmost importance. Solvay came to Bulgaria with the intention to develop the company and not bring it to bankruptcy. The positive practice of social dialogue and policy is expressed firstly, in the way of treating redundancies and secondly, in the subsequent dialogue with the labour unions. Almost 50% of the employees have been made redundant by assigning the company peripheral activities to private companies. For example, commuting, catering, etc. The companies who won the tenders were obligated to guarantee jobs for the workers of the enterprise who had been employed in these activities for over a year. Not a large part of the employees were made to retire after been paid a relevant compensation. Straight after the privatization the owners involved the labour unions in decision and policy making. The representatives of the labour union organizations were sent to the other factories of the holding to see on-site how Solvay is working. Training courses were organized to prepare them for their activities and to make them familiar with the policy of the new owner. These preventive measures had a positive effect on the further behaviour of the labour unions. The causes of discontent with the policy of the new owner were removed. The holding itself has been trying to "educate" the labour unions and hence the workers so that they will be able to talk "same language".*

For solving each issue, which concerns the workers and the employers, committees have been formed, made of representatives of the employer and the labour unions. There is a committee on the redundancies, on social benefits, etc. Depending on the complexity of the matters the committees make decisions with a consensus or a majority. The resolutions of the committees are of the highest instance. They do not have to be approved by higher administrative quarters. This practice has several positive consequences. Firstly, there is a greater chance for solving the problems fast and fair. Secondly, the employer can always feel the "pulse" of the problem therefore he can always foresee any conflict situation. Thirdly, the labour unions take a concrete part in the policy of the enterprise.

Fourthly, practically, the labour unions have the opportunity to defend the rights of their labour union members, which automatically improves their reputation. Fifthly, the dialogue turns into a basic means of communication between management and employees.

A social programme has been developed in the enterprise, whose main purpose is the further qualification of the staff. The training courses for improving the work skills of workers and other employees are compulsory. Workers are enabled to improve their qualification. Particular attention is paid to the qualification of the managerial staff. In addition to the courses for acquiring extra skills, the middle and high executive staff participate in the regular meetings organized by the Solvay holding for all the personnel in the respective sphere. These meetings serve to eliminate any differences in the requirements, to outline the common policy of Solvay, etc. The Solvay-Devnya plant has turned into an integral part of the holding.

Solvay Devnya proves the viability of bi-partism, but at the same time it proves the validity of the statement that social dialogue depends most of all on the partners and not so much of the regulations. Regulations are necessary to defend the rights where there is no willingness for dialogue.

*"The Odessos ship repair yard is an example of a socialist mammoth, which has been privatized by a combination of two methods. 67% of the assets have been sold by voucher privatization, and the remaining assets have been bought by the management and employee team."*

Although, in contrast to Solvay Devnya, Odessoss is not backed up by large financial resources, the company has managed to optimize the number of personnel by assigning activities outside its main line to private firms and by retirement schemes. The latter scheme was most often the case. The social dialogue in Odessoss has found concrete forms in the talks on signing the collective labour contract, where the labour unions have managed to make a bargain for BGN 150 monthly social remuneration for the workers. This includes travel expenses, meals, working attire, apart from the funds for medicines and social assistance. Odessoss is a paragon in the field of heavy industry. The main fault of the social dialogue after the privatization, compared with the time before the privatization, was pointed out to be that the decisive factor now is the owner's will.

*Metal Standard was privatized by MEC when it had 50 workers. By the time of the privatization it was in an extremely bad condition - great indebtedness to the workers, NSSI, and other state institution as well as some lenders. The workers who are engaged in metalworking had not received work clothing for two years, wages had not been paid, no new machines had been bought for decades. Anyone who would dare take the risk and buy this enterprise gets an extra credit of trust.*

The buyer managed to cope with the critical state of the company within a period of two years and at the moment they are making small steps towards improvement. The workers see that concrete attempts are being made for the plant to

stand on its own feet. Meanwhile, the small size of the plant enables the owner to be permanently among the workers and this way to get informed about their problems. This has a positive effect on the relationship owner – employees, however in practice it is circumventing the labour union in the enterprise. It is surprising that despite the opportunity to terminate the activities of the labour union without any sanctions the owner has not done it. By constant direct contacts with the workers, their regular and full briefing of the next steps to be made to ensure orders and strategic partners the owner gets the workers involved in the process of corporate government which has proved to be the only winning strategy.

Unfortunately, the positive examples are fewer and get less publicity unlike the unsuccessful privatization deals, especially if the enterprises are emblematic of a certain town or region, as is the case with KT Madara and Alumina AD in the town of Shoumen. The problems of the two privatized enterprise are the same. The workers have become hostages to the fortune of their owners. Negotiations for signing a collective labour contract are difficult. The talks and the relations between the employers and the labour union have been formalized to extremes. The employers are making attempts to circumvent or directly disregard the signed collective labour contract. In their turn, the labour unions have taken a defensive position. They show no initiative and flexibility for facilitating social dialogue. They are not inclined to admit mistakes in their behaviour. All the reasons for the inferior of lacking dialogue are attributed only to the employer. These two examples confirm the conclusion above that the qualities and the motivation of the representatives of the employers and the labour union are of paramount importance for conducting social dialogue and policy.

Unequivocally and absolutely unanimously all the representatives of the labour unions, regardless of the enterprise they come from, evaluated as positive and successful the practice of signing a collective labour contract.

The labour unions' opinion of the labour and social laws in force is balanced. In spite of this the Labour Code is believed to be a concession on the benefits, which were attained before its adoption because the role of the labour union has contracted to consultancy, which automatically diminishes the opportunities for exercising protective functions in defense of their members.

The employers hold a contrary position. According to them the Labour Code protects chiefly the employees, because it does not allow the employers to discharge employees easily but a lot of procedures have to be observed, which makes the process inflexible and unsustainable in court. We can infer that at enterprise level the gap between employers and labour unions is enormous and its bridging is not in tune with the rates of economic development. The employers' position comes down to the following, until their enterprise can stand firmly on its own feet and make the desirable profit, they will not be in a position to conduct any social policy. After achieving the respective financial results, the employers, themselves, will offer the employees the required social benefits. As for the labour unions they are not flexible and dynamic enough. In respect of social dialogue the labour



unions' position is traditionally radical and reminds one of the classical thesis that the only purpose of the employers is to exploit labour. It must be noted that the labour unions are unwilling to take responsibility for observing labour discipline or control on the production quality and in this case take the role of employers' partners. This position explains the position of the labour unions concerning the model of bi-partism. It will be introduced, not because it suits both parties but because the employer is in a superior position and will impose it.

According to some opinions, the model in Germany will be disastrous for the labour unions, because their inclusion in bipartite committees, at enterprise and branch level will turn them "one of the employers" which will discredit the labour unions in the eyes of their members.



## **CONCLUSIONS: THE BULGARIAN WAY – ACHIEVEMENTS, LESSONS, PROSPECTS**

Despite the negative effects, the accomplished privatization contributed to the expansion and consolidation of the basis of the private sector. In 2001 the private sector accounted for 63 % of GDP and 72 % of the gross added value, and provided for 73.4 % of total employment.

At microeconomic level a greater part of the privatized enterprises have recovered and are improving their competitiveness, which contributes to the slower though, yet more secure expansion of the private sector in the past years. In medium-term perspective the efficiency in industry is expected to improve as a result of the current corporate, product and technological restructuring. The tension caused by the need for state financing and supervision of the greater part of the enterprises, until recently classified as strategic, has declined. The proceeds from the privatization ensure the expected budget revenues. It is apparent that there is financial stability and improved macroeconomic factors. Investment risk is smaller and the country is more attractive and open for foreign capital. The privatization policy in a period when real privatization has been completed is oriented towards the finalizing of the process within the shortest possible time. With the execution of the privatization an essential period of the structural period is over. It is universally recognized that only by enhancing the mechanism of market principles in the economy a lasting economic prosperity will be ensured.

The lessons of the privatization are aimed mostly at shattering the initial spread illusions both in the popular public opinion and among those who were executing or participating in privatization. One of the biggest illusions of both groups was the conviction that privatization will lead to faster growth of the economy. Another basic illusion of the public the opinion, which was also an illusion of the political elite, was that the Bulgarian enterprises were of high value but they had been sold for "cents".

Another basic illusion was related to the circumstance that the private sector, emerging as a result of denationalization of state assets, would create

enough jobs to counterbalance unemployment. The in-house survey proved that the participants in the privatization process were not aware of the measures, which the state had taken to reduce structural unemployment. The efforts of the state had been oriented mainly towards compensatory actions and funds had been allocated mainly for payment of severance pay. Very little or hardly ever had anything been made for the redundancies or creating opportunities for training and retraining of the laid off workers and other employees. As a whole, this had reflected disastrously on the quality of labour in total in Bulgaria. More and more often employers complain that it is difficult even impossible to find qualified staff. This fact additionally complicates the situation on the labour market and works against the opportunities of increasing the remuneration level of labour. Bulgaria has made a name for itself as the country of the lowest remuneration of labour.

The main mistakes in carrying out the process of privatization in Bulgaria, which would have been avoided for sure if the privatization would start again, are also two. The interviewed stated that it was assets that should have been privatized first and not equities, i.e. the way it was done in Germany. This approach in privatization does not burden the buyers with liabilities they have not incurred. The process is much more precise, it is clear what and how much has been privatized. The financial proceeds, which the state would acquire, would definitely be larger in amount. Secondly, the law should clearly specify the rules for conducting all the procedures in order to restrict to maximum the malpractices of officials at all administrative levels. With the view of accelerating privatization, which would have decreased the social price, special competence for "finalizing" privatization could have been delegated to private structures such as consultancy firms and legal teams.

The role of the labour unions in the privatization process was stated as positive because the labour unions did not sabotage the process. The explanation of that is the delayed privatization and that everyone was convinced that it was the only way of solving the problems. The survey showed the delusion common among the public and the experts that the labour unions were not admitted to participate in the process of denationalization of state assets in Bulgaria. It must be stressed that it is most often an allegation of representatives of the labour unions themselves. In fact one of the two largest labour unions – CITUB set up a privatization fund for participation in the voucher privatization with the intention to combine the role of employer and labour representative at the same time. The depravity of this conceptual scheme, especially in the Bulgarian conditions is impossible to discuss thoroughly within the limits of this report. The propagation of the view that it is not normal for the labour unions to take part in the denationalization of state assets because they are not "a party to this process", as well as the negative opinion about the attempts of single labour union leaders and labour union organizations to assist informally and unfairly (led by personal vested interests) the management-employee buyout scheme in some enterprises, determine an ambivalent attitude towards the labour organizations in the process. On the other hand, great expectations are set on the labour unions to implement post-privatization control.

We must point out that the time is not ripe for making an objective assessment and analysis of the privatization. In the survey, the implementation of denationalization of state assets was interpreted in a biased way, only from the point of view of the interviewed group – employers, representatives of the state administration, which carried out the process of denationalization, labour unions.

On the basis of the privatization experience gained in Bulgaria we can recommend actions, depending on the conditions, for implementing social policy and the mechanisms of social dialogue. Part of the recommended actions and measures, can be provisionally applied in the Serbian practice of denationalization of state assets, as well as in the post-privatization period.

*The economy of Serbia, devastated by the wars and the sanctions against the rule of the former President Miloshevic needs urgent recovery. In this respect the ruling reformers in Serbia are planning to speed up the process of privatization. Privatization is in the basis of the management strategy of the pro-western ruling forces, which came to power after the fall of Miloshevic in October 2000. The government expects by denationalization to attract vital investments and new technologies. The policy of denationalization, the privatization programme as well as the organization of the process should take into account the meager local (national) investment interest and the deficiency in resources of capital in the country. Since its setting up in the middle of 2001 up to now the privatization agency in Serbia has sold three cement plants to foreign investors and has sold by tender several smaller firms, in the latter case, to local entrepreneurs. Because of the wars and the sanctions privatization in Serbia started with a huge delay compared with the other CEE countries. As the experience gained in the process of denationalization in the post-socialist countries shows, the late start inevitably affects adversely the quality of the process. Meanwhile, Serbia has the chance of implementing a strategy of accelerated privatization in the way it was implemented in Bulgaria by the government of UDF in the period 1997-1999. About the rate of implementing the denationalization in Serbia up to now, the experts are not unanimous in their opinions. Anyway, the World Bank appealed for faster progress in selling the state-owned enterprises by the end of 2002. Meanwhile the experts have established a rising interest of foreign companies in the privatization of Serbian enterprises. The privatization procedures, which have been advertised so far, are for companies belonging to different sectors - from pharmaceuticals to sugar production as well as the Beopetrol petrol station chain and two cigarette factories. The desire of the privatization organ is to sell these companies by tender. In Serbia there are plans for sale by open bidding for 1000 smaller companies to the end of 2000, mainly to local investors including workers, other employees and management.. Western experts value highly the efforts of the privatization organs to enhance public support for the sale of state assets by advertising and propagating the process by billboards and meetings with the population in the whole country. Most attractive to foreign investors are considered the pharmaceutical, chemical and agricultural sectors in Serbia. The companies advertised for sale in 2002 do not include the bankrupt mammoth industrial works of socialist times, which are supposed to go through restructuring on a large scale first. The large Serbian companies like the National Electric Company and the Zastava Automobile Plants will not be advertised for denationalization until 2003, because at the moment they are in a bad financial state.*

1. Regarding the privatization process in terms of its social price and the consequences for the social cooperation, dialogue and social policy:
  - 1.1. Speeding up the privatization programme, passing of privatization law and building regulatory and institutional framework of the process;
  - 1.2. Establishing institution to implement the process. The rules for implementing the activities shall be developed by the international financial institutions, and the control on competence – implemented by the same institutions. (e.g. WB or IMF)
  - 1.3. Quick start of the denationalization process by using chiefly market privatization methods and schemes (payment by cash, not by other quasi-monetary instruments like vouchers, compensatory notes, etc.) and giving priority to open procedures, i. e. those ones which tolerate competition and guarantee equal participation without constraints.
  - 1.4. Parallel development of a strategy and programme for liquidating unsuitable for privatization state-owned enterprises. Raising loans for restructuring these industries, including concrete measures for coping with structural unemployment, i. e. training and retraining of labour. Attracting social partners for participation both in developing the strategies, and implementation of the restructuring programmes.
  - 1.5. Creation of a strategy and rules for post-privatization control and attracting the social partners to participate in its development.
2. Regarding the post-privatization control and the role of the social partners in the already privatized enterprises:
  - 2.1. Post-privatization control shall be assigned to an external organ, which will work independently of the state and shall not be part of the state administration. An appropriate solution could be a contract for the execution of this task made with a private agency, who will be responsible for the implementation of post-privatization control and will report the efficiency of their activities to the executive authorities represented by the branch ministry of economy.
  - 2.2. The state shall initiate holding national/industry and branch forums for discussions of topical issues of the post-privatization process in the enterprises
  - 2.3. Promoting the practice of bipartite cooperation and dialogue between labour unions and employers in the already privatized enterprises
  - 2.4. Defining clearly the rights, responsibilities and obligations of all players in the labour relations by means of the Labour Code and labour legislature as a whole.

# ACTION PLAN

<b>PROBLEM:</b> <ul style="list-style-type: none"> <li>• Implementation of efficient social policies, i.e. aimed at minimization /counter-balance of negative consequences from privatization, both at national level, and at company level, and</li> <li>• Continue/Broaden the social dialogue at all institutional level before, during and after privatization</li> </ul>	<b>TARGET GROUPS:</b> <ul style="list-style-type: none"> <li>• The competent state institutions, governing and implementing the privatization process in Serbia (privatization bodies)</li> <li>• Organizations of the employers (employers associations) of the workers and other employees (labor unions) at the national, industry/branch/municipal levels, and their representatives at the company level</li> </ul>
<b>PURPOSE:</b> Based on the experience gained in the privatization process in Bulgaria, to recommend actions which provide for more opportunities to implement efficient social policies during and after privatization and to carry out social dialogue.	<b>INSTITUTIONAL FRAMEWORK:</b> The political powers, state governance bodies, state institutions, executing the privatization (the privatization bodies stipulated under the legislation); bodies, controlling and monitoring the process of denationalization (including the international financial institutions); the parliamentary committees on social policies, the national/industry, branch and municipal institutions for tripartite bargaining and collective labor contracting, the collective labor contracting mechanisms and all bodies for social dialogue in the companies; the media and organizations of civil society.
<b>IMMEDIATE OBJECTIVES:</b> <ol style="list-style-type: none"> <li>1. To identify actions and measures, which will diminish the social price and the negative effects from denationalization;</li> <li>2. To identify actions and measures, which will assist the implementation of efficient post-privatization monitoring and control.</li> </ol>	<b>INDICATORS:</b> <ol style="list-style-type: none"> <li>1. Provision of active participation on behalf of the social partners in the public awareness campaign and implementation of the process itself;</li> <li>2. Provision of institutional and legislative-regulatory inclusion of the social partners (labor unions) and their representatives in the process of post-privatization control.</li> </ol>

## RESULTS:

Prospective results from the implementation of these actions and measures are:

1. Decrease in social tensions during privatization;
2. Gaining public support for the process of denationalization through providing access to more information both on the positive and the negative effects from denationalization;
3. Efficient control concerning the transparency and the organization of the process of denationalization (the correctness of privatization deals, compliance with privatization procedures, accuracy of contracts, anticorruption measures and events);
4. Carrying out - in the format of a well-timed strategic (medium- and long-term) program - of adequate measures to overcome, i.e. minimize the negative social effects from privatization;
5. Maintaining/enhancing the labor force quality and preventing labor resource losses resulting from denationalization;
6. Keeping up/Diversifying the practiced mechanisms for social dialogue at all institutional levels.

## ACTIVITIES:

1. Related to the privatization process and its social price, and the consequences to the social partnership, social dialogue and social policies:
  - 1.1 Fast adoption of a privatization program, Law on Privatization, regulations and building the institutional framework of the process;
  - 1.2 Establishing an institution responsible for the execution of the privatization process. The rules governing its activities, are developed by and compliance with them is controlled by international financial institutions (for instance WB, IMF);
  - 1.3 Immediate start of denationalization process and priority implementation of market privatization methods and schemes (privatization for cash payments, and not for quasi-legal tenders such as bonds, compensatory instruments and similar) and giving preference to open procedures, i.e. those that tolerate competition in privatization and guarantee unlimited access;
  - 1.4. Simultaneous development of the strategy and the program for liquidation of state enterprises not designed for privatization;
  - 1.5. Contracting of loans for the purpose of restructuring of those industries and for the implementation of specific measures dealing with structural unemployment, including labor force training and re-training. Involvement of the social partners to participate in the development of the strategy, and in the restructuring program implementations;
  - 1.6. Developing the strategy and rules for post-privatization control and attracting the social partners to participate in it.
2. Related to the post-privatization control and the role of the social partners in already privatized enterprises:
  - 2.1 Post-privatization control should be carried out by an external body, operating independently from the state and state administration. A suitable option may be contracting the post-privatization implementation to a private agency, responsible for it, and reporting the efficiency of its actions before the executive power, specifically before the specific branch ministry;
  - 2.2 The work of the institution responsible for the post-privatization control should include the work of experts and councils with representation from all social partners;



<p>2.3. The state must initiate national/branch or industry forums at which discussions should be organized on current issues of post-privatization process at company level;</p> <p>2.4. To assist the practice for bi-partite cooperation and dialogue between the labor unions in the privatized enterprises on specific current issues in the private enterprises such as labor safety, provision of safe and healthy labor conditions, flexible work hours, in/out-of-house qualification retraining, dealing with environmental problems;</p> <p>2.5. To define clearly the rights and responsibilities of all actors in the labor relations in the Labor Code and labor legislation;</p> <p>2.6. To provide the legal right for labor unions to signal about non-execution of post-privatization obligations and to initiate checks in privatized enterprises, even in the case of non-existing union in the company.</p>	
<p><b>RESOURCES:</b></p> <p>The implementation of the action plan requires the mobilization of all both domestic (within the country), and external (foreign) resources.</p>	
<p><b>PREREQUISITES:</b></p> <p>The existing practices for social dialogue at the national /municipal, industry/branch and company levels;</p> <p>Implementation of the social policies as a part of the overall economic policies, development and presence of legislation and institutional infrastructure in the area of labor and labor relations, social- and pension security relations and social risk protection (not only unemployment, but temporary, or continuous invalidization , etc).</p>	<p><b>TENTATIVE PROVISIONAL RESPONSIBILITIES:</b></p> <p>The implementation of all these actions and measures is only possible in case of tentative declared support for the privatization process by the social partners. The declared public understanding for the necessity to carry out the process of denationalization as the only solution to the problems of post-socialist economy and the expression of support for the privatization philosophy are prerequisites for a successful process.</p> <p>On the other hand representatives of the governing political powers and the governmental institutions, executing and managing the privatization process must declare before the public at large their readiness for cooperation with the social partners both during privatization and in the execution of post-privatization control.</p> <p>The representatives of the ruling political power/s and the governmental institutions in the area of social policies should be prepared in advance for the implementation of the measures and actions to counterbalance/minimize the negative social effects from privatization, mainly in the area of training and re-training of the labor force made redundant in the privatized enterprises.</p>



## BIBLIOGRAPHY

- Kalaydgiev, Stancheva, Popov, 1996 (Publication in Bulgarian).
- Nikolaeva, D.:Privatization – Theory and Reality, 1990 (Publication in Bulgarian).
- Passev, V. V: Management, 2002 (Publication in Bulgarian).
- Popov, T, Privatization: from Law to Practice, S., 1993 (Publication in Bulgarian).
- Anderson, Terry/Hill, Peter (1996): Introduction: Political Economy of Privatization, in: (Hg.), S. xi-xiii.
- Anderson, Terry/Hill, Peter (1996/ed.): The Privatization Process: A Worldwide Perspective, Boston/London.
- Ash, Timothy/Hare, Paul/Canning, Anna (1994): Privatisation in the Former Centrally Planned Economies. In: Jackson, Peter/Price, Catherine M. (ed.): 213-236.
- Balcerowicz, Leszek (1995): Socialism, Capitalism, Transformation, Budapest et. al..
- Blommenstein, Hans/Geiger, Rainer/Hare, Paul (1993): Privatising Large Enterprises: Overview of Issues and Case Studies, in: *Methods of Privatising Large Enterprises*, OECD, Paris: 11-38.
- Boyko, Maxim/Shleifer, Andrei/Vishny, Robert (1994): A Theory of Privatization, Working Paper No.1689, Harvard Institute of Economic Research.
- Boyko, Maxim/Shleifer, Andrei/Vishny, Robert (1995): Privatizing Russia, Cambridge Mass./London.
- Dini, Lamberto (1993): Privatization Process in Eastern Europe: Theoretical Foundations and Empirical Results. In: Baldassarri, Mario/Pagetto, Luigi/Phelps, Edmund (ed.): 9-14.
- Grosfeld, Irena (1991): Privatization in Eastern Europe: An Evolutionary Perspective, Paper prepared for Conference on the East European Transformation, Princeton, New Jersey, May 3-4.

Evers, Hans-Dieter, Tilman Schiel (1988): Strategische Gruppen. Vergleichende Studien zu Staat, Bürokratie und Klassenbildung in der Dritten Welt. Berlin: Dietrich Reimer Verlag.

Frydman, Roman/Rapaczynski, Andrzej (1994): Privatization in Eastern Europe: Is the State Withering Away?. Budapest et. al..

Hausner, Jerzy/Jessop, Bob/Nielsen, Klaus (1995/ed.): Strategic Choice and Path-Dependency in Post-Socialism, Aldershot/Brookfield.

Hausner, Jerzy/Jessop, Bob/Nielsen, Klaus (1995): Institutional Change in Post-Socialism. In: ders. (ed.): 3-44.

Holzmann/Jorgensen (1999): Social Protection as Social Risk Management: Conceptual Underpinnings for the Social Protection Sector Strategy, Paper. Social Protection Discussion Paper No. 9904. World Bank. Washington, D.C.

Kornai, János (1991): The Principles of Privatization in Eastern Europe, Discussion Paper No. 1567, Harvard Institute of Economic Research, Harvard University, Cambridge (Mass.).

North, Douglas (1996): Privatization, Incentives and Economic Performance. In: Anderson, Terry/Hill, Peter (ed.): 25-37.

Nuti, Mario (1992): Privatization of Socialist Economies: General Issues, in: Privatization in Eastern Europe, Proceedings of the Conference "Privatization: How to Use this Instrument for Economic Reform in Eastern Europe". Vienna: 21-35.

Richter, Rudolf/Furubotn, Eirik (1996): Neue Institutionenökonomik, Tübingen.

Shleifer, Andrei/Vishny, Robert (1994): Politicians and Firms. In: *Quarterly Journal of Economics*, CIX, S. 995-1025.

Stiglitz, Joseph (1993): Some Theoretical Aspects of the Privatization: Applications to Eastern Europe in: Baldassarri, Mario/Paganetto, Luigi/Phelps, Edmund (ed.): 179-204.

Tatur, Melanie (1995): Interessen und Norm: Politischer Kapitalismus und die Transformation des Staates in Polen und Rußland. In: Wollmann, Hellmut / Wiesenthal,

Helmut/Bönker, Frank (Hg.): 93-116.

United Nations (1992)(ed.): Economic Survey of Europe in 1991-1992, New York 1992.

Winiecki, Jan (1992): The Political Economy of Privatization. In: Siebert, Horst (ed.): 71-90.

Winiecki, Jan (1993): Post-Soviet-type Economies in Transition. Aldershot et. al..

Zecchini, Salvatore (1993): Critical Issues in Privatisation. In: *Methods of Privatising Large Enterprises*, OECD, Paris: 71-84.